

2-1-1989

Motions 1989 volume 2 number 5

University of San Diego School of Law Student Bar Association

Follow this and additional works at: <http://digital.sandiego.edu/motions>

Digital USD Citation

University of San Diego School of Law Student Bar Association, "Motions 1989 volume 2 number 5" (1989). *Newspaper, Motions* (1987-). 10.

<http://digital.sandiego.edu/motions/10>

This Book is brought to you for free and open access by the Law Student Publications at Digital USD. It has been accepted for inclusion in Newspaper, Motions (1987-) by an authorized administrator of Digital USD. For more information, please contact digital@sandiego.edu.

Motions

Volume II, Number 5

This Issue ...

Critic's seminar explores legal policies ...page 4

Externships: 'paying to play' is valuable experience...page 7

A first hand- look at desegregation...page 11.

Law library construction on schedule

by Matthew M. Pribyl

"Isn't the library construction finished yet?" A common lament of students around the law school these days, but be assured, the construction is right on time. "We are proceeding on schedule with the library construction and no delays whatsoever are anticipated," states Law Library Director Nancy Carter.

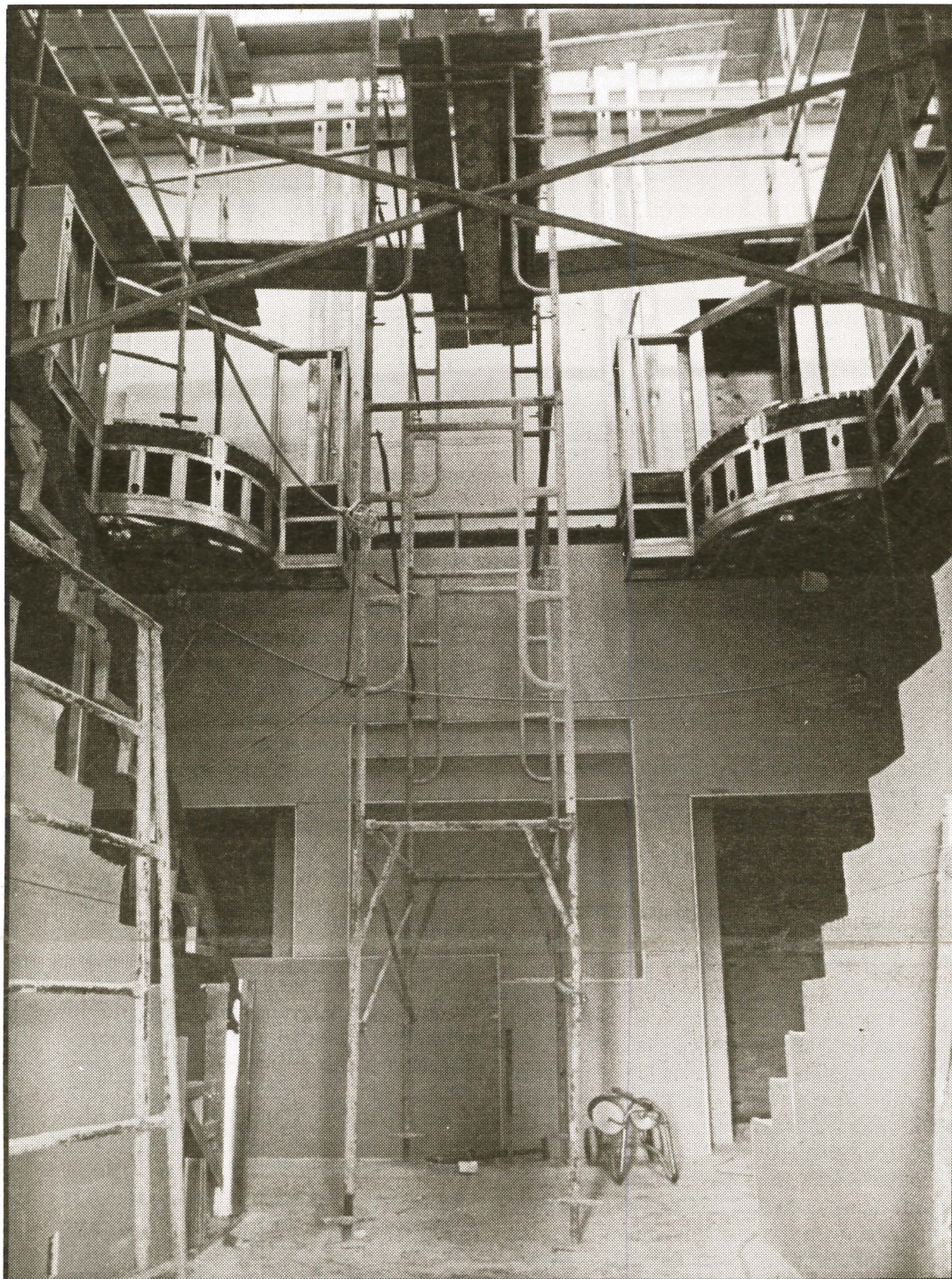
The entire plan for the new Legal Research Center (a.k.a. Kratter Law Library) has been finalized for some time, and the resulting structure will benefit the law school and the legal community in San Diego enormously.

Phase One of the construction will be completed by June 1989, at which time the new addition will be finished. The majority of the books in the library will then be transferred to the new addition and work will begin on the existing structure.

Kratter Library as we now know it will be completely gutted and the space inside utilized more efficiently than at present. This renovation will be completed by June 1990 if construction remains on schedule, and will constitute Phase Two of the Legal Research Center construction. At the end of Phase Two the renovated structure and the new addition will be joined to form the entire Legal Research Center.

At the end of Phase Two, the current structure will have new features which will aid the general problem of overcrowding at the Law School. For instance, the Center will have two additional classrooms: one larger auditorium-style classroom and one smaller classroom.

In addition, more faculty offices will be created on the third floor of the existing structure so as to better utilize the space in that area. Also, the law centers which are now housed in Guadalupe Hall will move to the new
(Continued on page 13.)



The Library construction is right on schedule. Pictured here is the atrium which will include skylights and balconies from the second floor of the existing structure.

10 percent tuition hike to supplement staff wages

by Jim Sherwood

USD law students each year are faced with the burden of determining how they will pay their tuition the following year. This burden is even tougher when the tuition rises extensively each year. Next year students who thought

that the last year's 8% hike in tuition fees was steep are in for even a greater surprise next year.

The 10% tuition increase for the 89-90 school term will raise tuition to \$10,285. This additional \$935 per each student (and with 1,000 full-time students) will raise close to an additional \$1 million in tuition revenue. The question

remains that with an inflationary rate of approximately 4%, how can the university justify tuition increases to this extent?

Dean Grant Morris explained that each year the Tuition and Budget committee gets together and establishes the proposed tuition for the following year. This figure is arrived at by considering not only the normal operating expenses of the law school but also the requests that will be received from various academic units, administration offices, the library and the president's office. This committee determined that an 8% increase for '89-90 would be necessary to cover these costs.

Then USD President Author Hughes initiated a special program to increase the salaries of staff and faculty on a university wide basis. This meant an additional 2% increase above the 8% increase agreed upon by the Tuition committee.

This extra 2% would be distributed from an "equity pool" in order to attract more distinguished professors to the university.
(Continued on page 14.)

USD holds civil rights march Feb. 16

by Darryl L. Exum

If you aspire to greatness in the profession you must immerse yourself in the agony of the times
Oliver Wendell Holmes

On February 16, University of San Diego will experience a first, a Civil Rights March on campus. The March is sponsored by the University Wide Committee on Social Issues.

The March will commence at 11 a.m. in front of the University Center, proceeding toward the West End Field, and returning to the University Center.

The Civil Rights March will provide a forum for the view-

points of students, faculty, and the San Diego Community at large. The administration may not be aware of how the students feel about holding classes on Martin Luther King, Jr.'s birthday.

Last year the law school cancelled morning classes and sponsored a panel discussion regarding civil rights and racial issues in education. However, this year's holiday did not merit at the minimum, the cancellation of classes.

The University has an interest in hearing the voices of its students. For example, some students believe that the low per-

centage of women and minority faculty is a legitimate concern.

The March can be a vehicle for voicing such concerns. The faculty along with students and the San Diego community should come lend support.

The march will be a new learning experience for some students. However, some students will not wish to participate for fear of being labelled the "L" word (liberal).

This march is not about whether you are conservative or liberal, republican or democrat. This march is about showing concern for your peers and public which you will ultimately serve.

5th Cir. judge presides over Moot Court competition

by Dorian White

Former Chief Judge of the 5th Circuit Court of Appeals John R. Brown will be one of three final round judges presiding at the St. Thomas More Moot Court Competition, Friday, February 3 at 5 p.m. in Grace Courtroom.

Brown, who is still a judge for the 5th Circuit, (he served as chief judge for 12 years until turning 70 at the end of 1979) is best known for his famous dissent in *Gomillion v. Lightfoot* which became a pivotal point in the history of constitutional law and was a precursor of the reapportionment decisions.

A straight-A student at University of Michigan Law School, Brown is said to have, "studied like hell and got drunk once a month." He moved to Texas after law school and became a senior partner at a firm in Houston. Brown specialized in admiralty law before receiving his appointment in 1955 to the nation's largest and busiest circuit court of appeals.

Once on the court, Brown proved an enigma to his fellow judges. On the bench, Brown was known for questions that cut to the heart of a matter. His intellectual discipline and capacity for work matched that of many of his peers, none of whom surpassed him in raw intelligence.

In later years, Brown spiced his opinions with quotable, colorful phrases - the "Browning" of the opinions, his law clerks called it.

An example came in a concurring opinion in which he parodied a routine holding in a case involving marketing of detergents. Brown reportedly sent a clerk to a supermarket to copy names of every detergent product on the shelves, then wrote: "Clearly, the decision represents a *Gamble* since we risk a *Cascade* of criticism from an increasing *Tide* of ecology-minded citizens...."

Other Moot Court judges

Professor Robert Klonoff will also be judging this year's competition. Klonoff, a 1979 graduate of Yale Law School, is a former law clerk of Judge Brown. When asked about his experience clerking for Judge Brown, Klonoff said, "The man is a genius. He was always well prepared and on top of the arguments. He is an historic figure for civil rights."

Klonoff indicated that Brown has a great sense of humor and gets together with his former law clerks several times each year. Klonoff believes that the best thing he took from his clerking experience was the ability to be persuasive. "After each argument, Judge

(Continued on page 13.)

Amicus Curiae

SBA and mid-term policy: "Wimpy, wimpy, wimpy"?

Dear Editor:

The above title best describes the current Student Bar Association's (SBA) handling of the mid-term policy. The policy is progressive, but needs restructuring due to its inconsistencies. For example, first year law students competed for law review using mid-terms with varying percentages. The SBA academic committee has not had a single meeting during the 1988-89 school year. I know this because I am a member of the committee.

Last fall I asked current SBA President, Jack O'Donnell about the progress of our committee. Apparently disgusted with administrative bureaucracy, Jack proclaimed, "It's out of my hands, the day Vice-President, Gary Fielder, is handling it." Shouldn't the President and Vice-President be working together?

Eventually, I contacted Fielder. I gave him the times I would be able to meet with Jack Minan and company. I did not hear from Fielder for two months.

After the delay, I asked him about the progress of our committee. There was no news to report. January 23, (two weeks later) Fielder told me "nothing was happening" with the academic committee. But said he would contact me within a week.

I welcome his suggestion of a meeting. Yet this action should have been taken last semester. More importantly, why is an ap-

pointed member of the academic committee forcing the SBA leadership to organize the student's input on the mid-term decision? This fact alone is why I am writing this letter.

The students do not need ineffective student leadership at a time when an innovative and controversial policy is in question. The policy has potential. Yet, flaws exist. Even the administration is divided. Action to correct the policy needs to be taken. Students, administrators, and professors need to work together to reformulate the chequered policy. A one-sided, teacher-orientated policy will not suffice.

The SBA must take the initiative to start the process of reformation. "What has the SBA done for us lately?" They have done **nothing** regarding the most controversial issue of the 1988-89 school year. Potentially they have lost any representation we, the students, have.

Have our elected officials sold us out to pad their resumes and receive stipends? I do not know the answer to that question. Yet until they do something about the policy, the answer will be yes.

I propose all SBA members, full-time day and evening students, make a demand. Elected representatives take the initiative and start the ball of reformation rolling.

This can only be done by representing our interest. This is why we elected them, and that is why they are being paid.

Tony Abbatangelo

Hands-off policy leaves Moot Court power unchecked

To the editor:

As most of the law students know, a moot court competition is a challenging and exciting experience. The competitions are run by the Moot Court Board (composed of students) and allow for students to test their legal writing and advocacy skills before attorneys and judges who volunteer their time in order to provide constructive criticism of the participants. Students are thereby provided with a realistic view of our legal system in hopes that they will have a better perspective on potential career choices after graduation.

Now that you have heard all of the rhetoric behind these competitions, it is only fair that you know the real story. This information may prove insightful in your determination of whether you should sacrifice your time to participate in a competition. While all of this rhetoric should be truthful, it ends up being only aspirational. This is a most unfortunate situation--especially when students are unaware of this before entering a competition.

Too much discretion is left to the Board and there are no set guidelines which the Board is obligated to follow in its determination of problems or "snags" that may develop during the course of the competition. For example, if a competitor has a question or complaint regarding the scoring of briefs or oral argument there is no set procedure for the competitor to follow in order to dispute something.

If a competitor wants to complain about a judge's performance or knowledge, nothing can be done until after the tournament when the judge's performance is no longer an issue. Even then, there is no delineated procedure in addressing this issue with the Board. Basically, any opportunity to be heard occurs after the conclusion of the competition when the results are already irreversible and the Board is already looking toward the next competition.

This leaves a very ambiguous void in which the Board seems to have unlimited power and discretion. To make matters worse, the Administration and faculty sponsors take a complete "hands off" approach to the whole situation leaving the Board's inherently broad powers completely unchecked. The end result is that there is a group of students judging its peers with no specific guidance or regulation. In other words, the Board can do whatever it sees fit without having to be reviewed and without having to answer to any organization

but itself. If a competitor happens to disagree with a certain action of the Board or if a conflict arises during a competition the Board has the only voice heard and its decision is final.

While these may seem to be petty points to anyone who has never participated in a competition, they are indeed major points that need to be addressed either by the Board or the Administration. Preparing for a competition requires a great deal of time and sacrifice for the competitor. These sacrifices are made with the apparent knowledge that a well-run and relatively fair competition will ensue. It is for these reasons that it is more than isheartening to not only have to face your opponents in the courtroom but to also have to lock horns with the Board every time a conflict or problem arises.

The irony of the whole scenario is that it is a completely moot point to even try to disagree with the Board in its exercise of limitless power and discretion. The Board is never wrong and the Administration blindly supports anything that the Board does. The farce goes so far as to allow the Board to review its own decisions when they are questioned by competitors. Wouldn't it be great if we could eliminate all of the appellate courts and allow for trial courts to review all of their challenged decisions? Let's hear it for due process and judicial review!

The point is that something needs to be done in order to rework the system. The current system is riddled with ambiguities and potential for abuse. As long as students are going to sacrifice the time and effort in order to compete and to serve on the Board, the University has an obligation to better serve the needs and interests of the students. These needs and interests are simple: provide us with an opportunity to legitimately test our abilities while getting a taste of what the real world of litigation and oral advocacy has to offer.

Unfortunately, I do not have all the answers. All I do know is that the Board's power needs to be checked in some way and that the Administration needs to be more attuned to the Board's activities. Anyone considering a competition in the near future may want to keep all of this in mind before making the huge sacrifices required for a successful learning experience.

Michael Kaplan
Class of '89



Ask the Dean

Last November, at the annual visitation of the Law School's Board of Visitors, concern was expressed about a "communications gap" between the students and faculty/administration.

Each semester, I hold a Dean's "Open Forum" in which students meet with administrators to discuss various student concerns.

Last fall, student attendance at this open forum was extremely low--in fact, the administrators outnumbered the students. We need to find alternative methods of increasing communication. I have requested that the Faculty-Student Relations Committee meet several times within the next few weeks and report to the faculty on ways to maximize efforts to effectively communicate and exchange ideas with the student body. Additionally, Motions has graciously accepted my idea to establish a new "Question and Answer" column that will appear regularly in this newspaper.

I invite students to submit questions and comments on any topic relevant to the Law School experience. Submissions should be made to my secretary, Ms. Sharron Coleman. I will select the best question or questions and personally respond in this column or assign the matter to the individual within the administration or faculty best able to address the issue or concern raised. Improved communications with students is a vital issue for this administration. I welcome your questions and your ideas.

There is one matter that will be considered by the faculty at its next regular meeting (Friday, February 10) that is of direct concern to law students. A few years ago, the faculty adopted a proposal establishing that the deadline for submitting fall semester examinations is the second Monday of the spring semester. The spring semester commences on the first day of classes. A proposal before the faculty would extend that deadline to three working weeks after the final examination is given. A working week excludes University holidays and vacations.

While faculty members are aware that students anxiously await their examination results, students also need to be concerned that faculty members have adequate time to accurately grade those examinations. I have asked the Academic Rules Committee to consider the proposal and to report its recommendation at the next regular faculty meeting.

If you have an opinion on this issue, or would like to make the faculty aware of a special concern, I ask that you contact Associate Dean John Minan who chairs the Academic Rules Committee or ask a student Bar Association representative to do so. The committee welcomes your input.

Dean Grant Morris

Following is a summary from the proposal made by Professor Don Weckstein regarding the changing of grade deadlines:

"Faculty members are encouraged to have their grades into the Records office as soon as feasible after...[their] final examination...and in any event not more than three working weeks after such final examination is given."

Until a few years ago, finals for the fall semester were given after Christmas. This was changed in response to students who said studying over Christmas ruined their vacations; faculty said having to grade exams given in December would ruin their vacation. Thus, as a compromise and to preserve everyone's vacation, Fall semester grades were due the third Friday (or fourth Monday) in the Spring

Last year the faculty voted to require Fall grades on the second Monday of the Spring semester for reasons not fully explained in light of the legislative history of the prior rule. The rule should be reconsidered to provide realistic expectations for students and a vacation for both faculty and students. No essay exam for 70 to 190 students could reasonably be graded in the seven days since class (and the working week) began.

Advantages:

1. Consistency and fairness regarding prior agreements with the students.
2. Faculty will have vacation time: for family, writing, relaxation and travel (including law-related conventions).
3. Essays can be used instead of time saving objective exams to meet deadlines.
4. Appropriate attention, reflection and care for exams.
5. No unnecessary anxiety, faculty harassment over faculty not meeting unrealistic deadline, and higher faculty and student morale.
6. Scheduling of large classes' exams early in the exam period will allow grading during that work week and grades may be turned in earlier.
7. Library impact: Some faculty members could spend more time in the library during vacation when the library is less crowded.

Disadvantages:

1. Grades will only be "delayed" one or two weeks beyond the current deadline. (This is normal in most law schools.)
2. Students on probation will not know whether to continue in school. (Being dismissed from school in the third week instead of the first week would still warrant full tuition refund.)

MOTIONS

NEXT ISSUE: March 16

Article Deadline
March 7

Advertising Deadline
March 7

Articles, letters to editor, classified and display advertising should be turned into the Motions office UC 114A or the mailbox, basement of More Hall.

Motions

Editor-in-chief
Starr Lee

Associate Editor
Charles David Hrvatin

Business Manager
Charles B. Andre

Advertising Manager
Christy Cava

Photographers: Peter Allen, Robert Swain
Sidebar Editor: John Altomare

Staff Writers: Matthew E. Pribyl, James C. Sherware, Jamie Sternberg
Contributing Writers: Brent Bernau, Julie D'Angelo, Carl Eging, Darryl Exum, Gary Fielder, Sharie Johnson, Elizabeth Kreitzer, Assoc. Dean John H. Minan, Dean Grant Morris, Dave Olan, Maryann Salaber, Adan Schwartz, Dorian White

Motions reserves the right to refuse editorial and advertising content deemed unsuitable or inappropriate for our readership. Contents of this newspaper are not necessarily the official views of, or endorsed by, the University of San Diego, or the School of Law.

USD volunteers advocate change in vagrancy statute

by John Altomare

The San Diego Police are issuing tickets and citations to the homeless for being homeless. They are being cited under California Penal Code section 647(i), the latest version of a vagrancy statute dating back to 1872.

A local attorney, Tom Homann, has volunteered his services and large amounts of time to defend some of these homeless persons in the San Diego courts. However, Homann is not alone. On behalf of the American Civil Liberties Union (ACLU), local attorney Kenneth Klein, USD Law Professors Lisa Black and Kevin Cole and USD law student Peter Allen submitted an amicus brief attacking the constitutionality of the statute.

Section 647(i) of the California Penal Code states: "Every person who...lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control thereof....[is guilty of the misdemeanor of disorderly conduct.]"

Constitutional attack on §647(i)

The amicus brief includes the same constitutional arguments used by Homann in defending his clients and more. Professor Black categorized the three constitutional attacks as the following: 1) Straight statutory construction analysis proves penal code constitutionally defective, 2) vagueness of code rises to level of unconstitutionality, and 3) code unconstitutionality makes a status a crime (referring to the Supreme Court cases, *Robinson v. California* and *Powell v. Texas*, prohibiting such a statute.)

1. Statutory construction

The brief details the legislative history of this code which makes clear that the term "lodges" applies only to lodging inside a physical structure. This historical analysis also shows that the substantive change made by the legislature in its 1961 revision was to make it illegal to lodge in public structures as well as private ones. This argument asserts the code is misinterpreted and enforced incorrectly by the San Diego police and leads inevitably to the argument that the code is unconstitutionally vague.

2. Vagueness of § 647(i)

Ironically, the 1961 revision was made in response to *In re Newbern*, in which the California Supreme Court held § 647(i) unconstitutional for vagueness. The brief argues that the vagueness is only compounded by the new construction and that such vagueness is intolerable.

What is or is not a "place" according to the statute? One cannot tell if an underpass, a sidewalk, a shrub, a park bench or a doorway constitutes a "place" where it is prohibited to lodge. Even if the police insist on misinterpreting "lodge" to mean other than a physical structure, how does one get permission to sleep in public "places" under the stipulations of the code?

An individual requiring a place to sleep can't obtain permission from the mayor, city council, Chief of Police or a cop on the beat. Possibly permission could be implied in the sense that a municipality is obligated to protect all people from cruel and unusual punishment in not depriving a person of sleep; the city is obligated (implicitly) to safeguard a person's right to sleep, privacy and to humane and civil treatment.

Defendant Juan Griffan was given both of his citations between noon and 3 p.m. for being found asleep in a public park on a sunny afternoon. From an evidentiary viewpoint alone, this seems to be an improper application of the penal code.

If "lodging" is to mean sleeping, there must be evidence to verify that the sleeping was done overnight in order to "camp out" or establish a place of residence. Clay claims "we don't prosecute people for sleeping in public." Ironically he stated also that the city does not issue citations based on municipal codes against overnight camping/lodging because they pose evidence problems such as proving "overnight." Thus it is because of the

vagueness of the term "lodge" that a police officer is granted carte blanche to ticket a person because he or she may be homeless.

3. Status now illegal

A homeless person sleeping in the park in the middle of a sunny afternoon may have slept soundly the night before in a friend's house or a shelter, and may be merely enjoying the park like an executive who takes a nap in the noon sun on his or her lunch break. This statute's vagueness gives unrestrained discretion, and no minimum guidelines, for the police to enforce the law.

The officer will let the executive-with-a-briefcase lie soundly sleeping, but, a few yards further down the rosy path, wake up the bum-with-a-bag-and-wearing-a-winter-coat and cite him with a criminal offense. Professor Black commented that police officers admitted to giving out citations specifically to those persons they sensed were "homeless."

(Continued on page 10.)

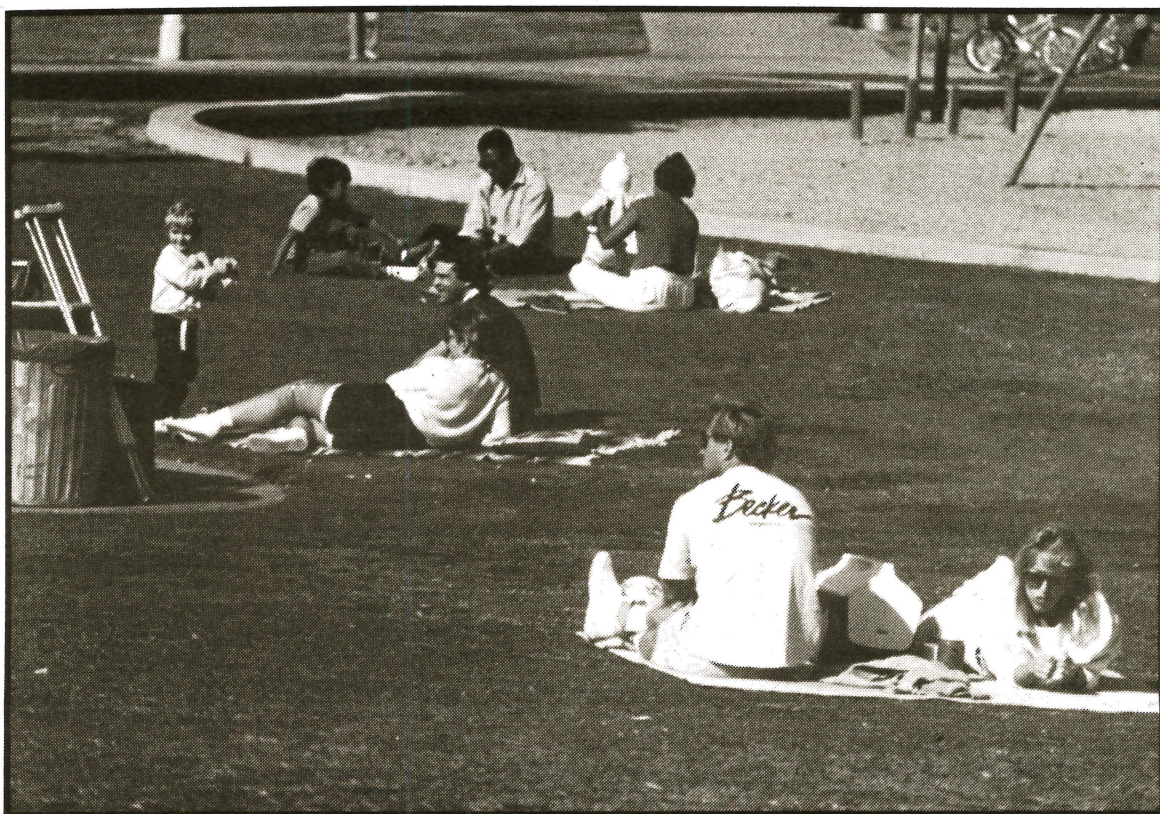


Photo by Peter Allen

The SDPD interpretation of §647(i) theoretically makes any persons sleeping or loitering in the park vulnerable to a vagrancy ticket.

Dean Search committee goes back to drawing board

by Elizabeth Krietzner

At the close of fall semester, six finalist in the search for a new dean of the Law School were invited to visit the campus. One of the six candidates withdrew prior to visiting the school. The remaining five candidates made two-day visits to the school beginning on November 21, 1988 and continuing through December 13, 1988.

These face-to-face meetings were important in order for the Law School faculty and University administrators to decide if the candidates were indeed acceptable candidates. The meetings were also important for the candidates to decide if they liked USD.

The candidate's acceptability is based on whether tenure could be offered to the proposed dean and the candidate's administrative skills. While an offer of tenure is not an absolute necessity for deanship, few candidates will accept a position as dean without the security of a tenured faculty position.

The Law School faculty and Dean Search Committee examine the candidate's teaching and researching skills in determining whether to offer tenure to the proposed dean.

The other area of importance is the candidate's administrative skills. These skills include the candidate's fund raising ability and the ability to relate to the legal community outside the USD campus. The proposed dean's administrative skills are of the utmost importance to University President Author E. Hughes.

The top three of the five candidates who visited the campus were selected by the Dean Search Committee and the Law School faculty. Their names were submitted to Hughes. One candidate was withdrawn from the selection process because the faculty did not feel tenure could be offered to the candidate.

A second candidate was withdrawn from the selection process because the candidate's administrative skills were barely acceptable to the faculty and not acceptable to Hughes. The third candidate was acceptable to all parties and the negotiations began.

The proposed dean's salary and fringe benefits were quickly agreed upon. However, two obstacles developed during the negotiation process. The selected candidate felt the cost of housing in the San Diego area compared to the candidate's current housing cost was so great that no increase in salary could overcome the increased housing expense.

The second obstacle involved budget considerations. The candidate sought guarantees from Hughes that certain areas of the Law School budget would be increased. Hughes declined to guarantee the budget increases, but did agree to submit the proposed budget increases through the normal budgeting process. President Hughes, to no avail, promised to support the proposed budget increases if the increases proved justifiable. No agreement was reached and the candidate withdrew from the selection process.

What is the next step in the dean search? The Dean Search Committee is in the process of selecting five candidates from an extensive list of possible candidates.

The five candidates will be invited to visit the campus employing the previous process.

Even though the candidates are being selected from the list previously compiled, it by no means indicates that the remaining candidates are second rate. The list is quite extensive and includes many suitable candidates. It is simply not feasible to have more than five or six candidates involved in the final interviewing process at one time.

More Hall PILF looks for fulfillment of donor pledges

by Adan Schwartz

The More Hall Public Interest Law Foundation (MHPILF) is requesting that those who pledged donations during last year's pledge drive and who have not yet paid please do so by sending their payments to the Foundation at USD Law School.

Of the more than \$11,000 pledged last year, less than half had been received as of the beginning of spring semester. This somewhat poor record of compliance detracts from what has otherwise been a strong first effort for the MHPILF. Officers of the Foundation are nevertheless hopeful of collecting substantially more funds before public internship grants are offered for the summer of 1989.

While collection efforts continue, plans are already in place for the second annual MHPILF fund raising drive. There will be two general membership meetings this month, on February 1 and February 23, to acquaint students with the MHPILF and to enlist help for the drive.

The Foundation provides grants for law students desiring to work in non- or low paying public interest summer internships. One way for students to help the cause is by giving some of their time during the two week fund raising drive and sitting at the collection table. Anyone interested in helping with the drive or just learning more about the MHPILF should attend one of the meetings.

More Hall PILF Calendar SPRING 1989

- | | |
|-----------|-------------------------------------|
| Feb. 1 | General Membership Meeting |
| Feb. 21 | Career Opportunity Forum |
| Feb. 23 | General Membership Meeting |
| Mar. 6 | Pledge Drive Kickoff Party |
| Mar. 6-17 | Pledge Drive |
| Mar. 8 | Student Internship Forum |
| Mar. 27 | Student Internship Applications Due |
| April 17 | Student Internships Announced |

Crits guru packs house for maiden CLS symposium

by Gary Fielder

"What you're doing in law school is getting your hands dirty with the raw guts of injustice in the society," said Harvard law professor Duncan Kennedy to the crowd of 300 students and faculty, "somehow helping you to burnout, avert your eyes and forget that what you're doing is deadly serious and deeply political." Such was the theme at the Critical Legal Studies

predominantly radical law professors who have challenged the method and philosophy of the Western legal tradition. The symposium, billed as "An Evening with the Crits," was organized, financed and run by USD law students and was the first in what was promised as an annual series of lectures by CLS scholars.

The panelist covered a wide range of basic ideas forwarded by the CLS movement. Wohlmuth began the discussion by

Wohlmuth drew a parallel between Western law and the magic threads used to weave the King's clothes. "By daring anyone to be the first to say that there was no fabric," recounted Wohlmuth, "they (the weavers) established the ability to see the thread as the litmus test of confidence and intelligence."

As the story goes, an innocent boy was the first to realize, or at least admit, that the King was naked. Wohlmuth analogized the boy (which he explained was a Black individual in the original Spanish version of the tale) with CLS and its ideals which attempt to see through the magic cloth of Western thought.

Addressing how the law effects feminist issues, Conaghan followed with a "Critical" presentation on how society's perception of gender roles find their way into legal thought and analysis. "Law creates, constructs and reinforces many of the definitions of women which feminism seeks to challenge," stated Conaghan.

Using Critical ideas about how language and history (or the absence of history) affect knowledge, Conaghan explained how sexist ideology is prevalent in what is perceived to be a neutral legal system. "Law purports to be communicating a knowledge which is universal," said Conaghan.

"Feminism shows that, through its silences, law's message is far from impartial. Essentially, there is a disjunctive between women's lived experience of the world, and the representation of that experience by men in discourses such as law."

Conaghan concluded by suggesting that the law's claim to truth and objectivity is only one "particular perspective masquerading as the only perspective."

As to issues of race, Crenshaw offered a

Critical analysis of what she described as a basic contradiction between society's belief that racism no longer exists and the reality of most people of color.

"In between the poles of this contradiction is the law," stated Crenshaw, "which creates the space so that people can seriously entertain the notion that this nation embraces equality, while simultaneously denying remedies to a number of complex problems of race that still exist."

Crenshaw explained the link between race theorist and Critical scholarship as one which stems from a mutual effort to examine how our legal framework contributes to racial domination.

"We think of ourselves as ones who expose the way that dominant ideology obscures the nature of race relations and frustrates efforts to continually organize around specific substantive issues of racial domination," Crenshaw stated.

She used the concept of formal equal opportunity to show how the law legitimizes racial domination by providing rhetorical justification on the basis of colorblindness and requiring an "almost impossible to prove" notion of intent.

"Our society needs to take a long, hard look at the actual conditions of inequality," concluded Crenshaw. "We have to reject the notion of nondiscrimination and adopt a nonsubordination model which is grounded in the normative belief that all racial disparity is suspect. This calls for valuing the perspective of subordinate groups and placing all burdens of proof, production and persuasion on institutions which remain essentially white."

Kennedy, whom Crenshaw called one of the "heavies" of the CLS movement,

(Continued on page 13.)



Photo by Robert Swain

UCLA prof Crenshaw spoke at the Crits symposium along with Harvard professor Duncan Kennedy, one of the leaders of the movement.

(CLS) symposium on January 19 at the University Center.

Joined by Professor Kimberle Crenshaw from UCLA and USD law professors Joanne Conaghan and Paul Wohlmuth, Kennedy belongs to a small network of

presenting a paper on the paradox between the human need for a legitimate set of beliefs to mediate crisis and the often blinding effect it has on its believers.

Employing the Hans Christian Andersen tale of "The Emperor's New Clothes,"

A philosophical view of the law: Critical Legal Studies

John H. Minan
by Associate Dean

On January 19, 1989, the School of Law hosted a program called "An Evening with the Crits." The students who participated in organizing and planning this program on the Critical Legal Studies Movement (CLS) should be congratulated. The large number of individuals attending the formal presentations by Professors Paul Wohlmuth, Joanne Conaghan, Kimberle Crenshaw, and Duncan Kennedy was testimony to their success.

The CLS movement has produced a substantial body of literature that is available to those interested in it. One of the most comprehensive collections is the Critical Legal Studies Symposium in Volume 36 of the 1984 issue of the Stanford Law Review. Another more recent reference is a book by Mark Kellman entitled *A Guide to Critical Legal Studies* published in 1987 by Harvard University Press.

As one examines the general literature on CLS, he or she cannot help being impressed with variety of views represented by those affiliated with the movement. There are many contesting and conflicting views within it. As a result, there is some risk in attempting to accurately describe some of the main views or tenets of this movement within a paragraph or two. Yet, I think this effort is useful.

The CLS movement was founded in 1977 by a group of scholars who had become disenchanted with the intellectual mood and direction of the Law and Society Association. This group thought that the Association had become too closely identified with the "empirico-behaviorist" wing of social science and that the road to jurisprudential enlightenment lay down a less data-oriented, more theoretical path. The

mainstream of the CLS movement was to be philosophy, not science. And, the general inspiration and title for CLS came from the tradition of Critical Marxism based on the early writings of Karl Marx.

In my opinion, there are some common features to CLS. First, there is the disenchantment with existing social and legal institutions. This view is frequently characterized as being based on certain leftist political and social values. Second, there is the rejection of "liberal legalism." CLS challenges the dominant liberalism of legal thinking that emphasizes rules and formalism.

Third, there is the CLS view that law is always political and never objectively neutral. Their fundamental premise is that existing legal doctrines legitimate patterns of domination and subordination. In other words, the conventional touchstones of legal decision making, such as economic efficiency, are chimerical, and mask the politics of any decision.

Fourth, they believe that by exposing the "incoherence" and "contradictions" of liberal philosophy the CLS movement will cause a new correct thinking. Beyond these features, CLS does not offer, at least in my opinion, any single theory of law.

The CLS movement does offer a theoretical program, however. It emphasizes placing power in the hands of "democratic agencies that set the terms of capital-taking." [See, Unger, *The Critical Legal Studies Movement*, 96 Harv. L. Rev. 561, 597 (1983).] The objective of the CLS movement is to eliminate social divisions and hierarchies, and to substitute the ideal of the community. In this sense, their program is both utopian and theoretical. In the final analysis, their ambition is to establish a platform for political action.

◆ THE WEST COAST GRADUATE TAX PROGRAM FOR ATTORNEYS ◆

LL.M. McGeorge

SCHOOL OF LAW

◆ Master of Laws in Taxation

◆ Master of Laws in Business & Taxation

A full-time or part-time program on the McGeorge campus, in California's capital. Small classes, individualized instruction by tax professors and tax attorneys. McGeorge prepares graduates to understand the increasingly complex tax laws and enter the tax or business practice ready to do the task. ABA accredited. Approved by the State Bar of California for qualification as Tax Specialist. Philip H. Wile, Director of Graduate Tax Programs, is a former Professor of Law at Stanford Law School and has extensive experience in private tax practice.



For information contact:

McGeorge School of Law University of the Pacific

3200 FIFTH AVENUE • SACRAMENTO, CALIFORNIA 95817
(916) 739-7108 • TELEFAX (916) 739-7111 • TELEX 383890 McGEORGE UD

Conaghan found "pot o' gold" at USD

by Jim Sherwood

A self proclaimed "leftist" from Kent University in England, Professor Joanne Conaghan was just what the often too conservative atmosphere of the University of San Diego needed. Since Conaghan's arrival in the fall of 1987, USD hasn't been quite the same. But where did all of this energy and these strong views come from, and what are her plans for the future?

Conaghan's strong legal background was easy to see with three lawyers and a judge in her immediate family. Growing up, she always wanted to be like dad, a prominent British barrister, and when she arrived in law school at the age of 18 she was well on her way. Her claim that she ended up in law by accident seems to be a modest understatement judging by her outstanding track record thus far.

During her four years of study at Oxford University she was involved in many academic activities. Debating in the prestigious "Oxford Wing" debate team was one of her most memorable and influential achievements during her education. She also spent a large portion of her time pursuing acting, a hobby that she enjoyed second only to law. But briefs and courtrooms took priority over costumes and stages when she chose law as her field.

Compromising her lawyering skills with her joy of being with people, she decided to concentrate on a branch of law that was people oriented. This desire to pursue law from a "people" perspective was confirmed after she finished clerking one summer at a corporate law firm in London. After just three months of tedious clerking tasks in a field that did not particularly interest her, she concluded that this type of work was not her cup of tea. That is when she decided to go into teaching.

Based on her high academic achievement in law school she was able to get a dispensation to take the BCL (which is similar to our LL.M.) in only one year. After completing this program at Oxford, she went straight into an extern teaching position at Devin for a year before retaining a full time faculty position at Kent University.

Following four years of teaching at Kent, Conaghan submitted a resume to USD in a faculty exchange program. Without as much as a second thought, she decided to diversify her legal experience by learning



Photo by Robert Swain

American law and traveling to the sunshine state of California.

Upon arrival, she found that most of her preconceptions and stereotypes about California were true. "It was just like 'L.A. Law' and all of the shows on television," Conaghan said. "The beaches were full of blonde, tan men with biceps and skinny women with long legs."

However, there was one misconception in San Diego which she was happy to find untrue. She had heard that society was so commercialized, that people used clichés such as "have a nice day" as a selling technique. ("Would you like a chili dog? -Thanks and have a nice day")

As she interacted with more of the citizens, she found that people in California were sincerely interested in meeting other people and were really trying to connect with them. People here, she says, "are a lot warmer and a lot friendlier than I thought they would be. Actually," she smiled, "I was pleasantly surprised."

While here at USD Conaghan has had a profound effect on many academic programs and extracurricular activities. During her first year as a professor she taught courses in torts and contracts to first-year students. This year she has also introduced a sex discrimination course to the curriculum.

The sex discrimination course, which she describes as a "course in gender relations," has prompted great response from both female and male students. The course which was originally scheduled to have only 15 students was finally closed with more than 30 students registered.

She is excited to see USD students responding to some of her ideas in a positive way. In fact, based on her work in Critical Legal Studies, a group of students recently took the initiative to bring about some change in the academic atmosphere at USD. With her guidance and support,

this group organized a seminar featuring four speakers on critical legal studies, which over 250 students attended.

Conaghan feels that it is important that students get involved in the process, and make the faculty respond, instead of being mere receptacles of information.

She has also been a moving

force as the faculty advisor of the Women's Law Caucus (WLC). She has prompted more in-depth discussions and university involvement in the WLC by acting as the liaison between the students and the faculty. Two of her most prominent articles "The Indivisibility of Women in Labor Law" and "Critical Labor Law and the American Contribution" exemplify her strong feminist perspective of women's roles in today's society. She is also currently working on an article concerning the synthesis on feminist theories in law, while tackling the controversial topic of pregnancy in the work place, which is presently a major debate in United States legal arenas.

Since Conaghan has recently declined an offer to remain at USD as a resident professor, she will soon be returning to Kent, England. This decision she said, was very difficult for her because of the numerous friends she has made and because of the enjoyment she has received from teaching at USD.

Despite these new ties in the United States, she misses her family and has other personal relationships in England which are important to her. Whether she will remain in England or return to America is still undecided.

When asked about her goals for the future, Conaghan revealed her interest in writing feminist novels on female emotional problems. With her determination and zest, I would not be surprised to find a bestseller on the racks some time in the near future.

Leaving California at the conclusion of summer, for Conaghan, means giving up some of her recently acquired hobbies of boogie boarding and going to the beach. But she does plan on continuing to play tennis and drive cars in England—which she finds to be "really good fun." She will also undoubtedly be the only professor at Kent with a jacuzzi.

S.D. Lawyers' Club sponsors "Day with an attorney" event

The Lawyers' Club of San Diego is sponsoring a new program called, "Spend a Day with an Attorney." It is designed to expose students to out-of-office events that make up a practicing attorney's daily calendar.

The program is starting this spring and intends to give students a real-life look at depositions, settlement conferences, trials and the like. Students will be given a "menu" of choices to attend. The entrees will include depositions, trials, mediations, arbitrations, civil law and various types of hearings and conferences.

The Lawyers' Club's Student Committee will match volunteer LC members with students who have expressed interest in observing a particular event and in a particular area of law.

The law students do not need to be a member of the Lawyers' Club to participate. Any students interested in participating should contact Maryann Salaber in the Career Planning office, or call x4771.

The Lawyers' Club was incorporated in 1979 to seek and advance the status of women in the law and to promote equality of the sexes in our society. Members are both male and female.

Alum advisors available for 1Ls

First and second-year students: The Alumni Office still has several alumni advisors who have not been assigned advisees for the Spring semester. It is not too late to sign up for the Alumni Advisor mentoring program. See Tammy Muir in the Alumni Office 203F, or call ext. 4373. Second-year students who did not participate in the program last year are welcome to register.

Law Clerk training program

The Law Alumni Association is offering a Law Clerk Training Program on March 11 from 9 a.m. to 12 p.m. This three hour seminar will provide the skills necessary for you to become an excellent law clerk.

The program is co-sponsored by the Career Planning and Placement office and the office of Development and Alumni Relations. Please see Jean Ritenour in the Planning office to register. If you have any questions or would like further information contact Tammy Muir in the Alumni Office, 203F or call ext. 4373.

This is a terrific opportunity to learn about such topics as research sources and materials, office etiquette and cost effectiveness, from experienced practitioners. Space is limited so register now.

USD Conference on Federal Fair Housing Act slated for June

by John H. Minan,
Associate Dean

The Federal Fair Housing Amendments Act of 1988 (Pub.L. 100-430, 102 Stat. 1619) was signed into law on September 13, 1988 by President Reagan. The new federal law extends the protections of the 1968 Federal Fair Housing Act (42 U.S.C. §3601-3631; Title VIII of the Civil Rights Act of 1968) to families with children and to handicapped persons.

In the context of handicapped persons, discrimination includes, among other things, refusing to permit handicapped individuals to make reasonable modifications to the premises when those modifications are necessary to the full enjoyment of the premises.

The new federal law is likely to have a significant effect on the existing housing discrimination laws in California. The Unruh Civil Rights Act (Civ. Code §51) generally prohibits discrimination on the basis of age unless the housing accommodations are specifically designed to meet the needs of the elderly (Civ. Code §51.2). Nevertheless, California law (Civ. Code § 798.76) permits mobile home parks to establish and enforce adults-only restrictions regardless of whether the mobile home park is reserved for senior citizens.

This legislative exception to the Unruh Act was held valid by the California Supreme Court in the 1987 case of *Schmidt v. Superior Court*.

Under the federal law, such adults-only restrictions would no longer be permissible. Only "housing for older persons" would be exempt under the federal law. This term is defined in the new law to mean housing that is:

(A) provided under any State or Federal

Program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(iii) the publication of, and adherence

to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

The federal law also contains some other important changes. It, for example, empowers the U.S. Department of Housing and Urban Development (HUD) - for the first time - to seek fines of up to \$100,000 against individuals or organizations found to have engaged in a pattern of housing discrimination.

This is significant because under the 1968 Act, HUD was authorized only to investigate complaints and promote conciliation between the parties. HUD is required by the new law to issue implementing regulations by March 12, 1989.

The School of Law plans to host a two-day conference in June on the new federal law and regulations. The conference faculty will include representatives from HUD. Additional details on the conference will be released later this spring.

Make a difference—
VOLUNTEER +

Financial Aid

Time to think 'loans' for '89-90

by Carl Eging
Financial Aid Director

The new academic year brings with it fewer changes than last year. Congressional Methodology which caused great changes last year will continue to influence the method in which student aid is computed. The Self-Help contribution for next year will continue to be based on the previous year income (in this case - 1988).

The rules for Dependent and Independent students will remain the same. During the past year approximately 95% of our students were classified as Independent. The minimum student contribution for the nine month period will remain at \$1200.

Once again this year, only the living expenses of the student may only be included for the nine month academic year. If a student is married only the expenses of the student, and not living expenses for the family except child care during school hours and medical expenses can be included.

Students who enroll in Summer Abroad or the regular Summer School will have to file the appropriate paperwork with the Financial Aid Office in order to have the associated costs added to the budget.

The Student Budgets have been revised to more closely reflect student expenses. One new budget category has been added in the area of medical care. Some of the new budgets include an amount for the standard student medical care available

Other budget categories have been increased in an attempt to more accurately reflect the costs that students incur. However, it should be noted that these costs are fairly inflexible. Alterations to the budget can only be made for individual situations and for extremely serious reasons. For the new school year the bar exam costs for graduating students will no longer be an acceptable as a budget addition. Copies of the budgets are available in the Financial Aid Office.

The process for obtaining financial aid will be very similar to the procedures in place this year. All students must file the College Scholarship Service Financial Aid Form in order to be considered for any financial aid including loans.

This year students who apply for just the SLS loan must still file the FAF form. These forms are now available in the Financial Aid Office. There are several other forms that are required for continuing students. The complete USD packet will be available after February 1, 1989.

Deadlines coming soon

The "priority deadline" for financial aid consideration has been moved up to April 1, 1989. In order to be considered for the Carl Perkins Loan Program or the Tuition

Credit Loan Program a student must complete and submit all in-house paperwork by that date.

The FAF must be stamped as having been received at College Scholarship Service by April 1, 1989 in order to receive priority status. Students are also reminded that May 1, 1989 is the deadline for receipt of all materials in the Financial Aid Office so that monies and/or checks should be available for Fall 1989 registration.

Sample Student budget Day Division

| | |
|--------------------|-----------------|
| Tuition and Fees | \$10,330 |
| Books and Supplies | 600 |
| Rents, Utilities | 3,805 |
| Food and Sundries | 2,070 |
| Transportation | 1,665 |
| Personal/Misc | 1,650 |
| Medical/Dental | 450 |
| Child care | *** |
| TOTAL: | \$20,570 |

As many of you are aware, there are several changes coming up with our lenders and our loan programs. The important changes are summarized below.

1. The SLS loan checks will now be disbursed in two installments just like the GSL program. This means that checks for both programs will be disbursed just prior to the start of each semester.

2. The CLAS Loan Program will phase out of existence. It will be replaced by the SLS Loan program which will be available from several California lenders. The SLS loan will also be offered by Law Access and the Law Loan programs.

3. There will be an expansion in the private loan programs. The Law Access Program (LAL Loans) will be moving to new bankers. The maximum amount available will increase to \$12,000 per year. The origination fee schedule and the interest rate schedule will be revamped.

4. The current Law Access Loan lenders will establish their own loan program. Details of this loan program have not been worked out, but their new loan will be called the Law Loan Program.

5. A new loan program will be available for our students. This loan program will be offered by a group of New England lenders and will be called the Grad Excel Loan Program.

Details about this program will also be made available as soon as we receive them. Students are reminded that the total amount received from any and all financial aid programs including all scholarship and loan programs can never exceed the cost of their education as per the basic budget established for the 1989-1990 academic year.

Center for Public Interest Law awarded intervenor compensation from SDG&E

On December 19, USD's Center for Public Interest Law was awarded \$3,582 in intervenor compensation by the state Public Utilities Commission (PUC).

Last May, three Center interns -- Bob Venberg, Steve Lindsley, and Linda Tice -- intervened in an SDG&E rate proceeding before the PUC. The students challenged a utility proposal to charge ratepayers who voluntarily or involuntarily disconnect their services for less than one year a \$15 reconnect fee. This charge would be in addition to its usual monthly service charge (\$4.80) for months during which service was disconnected and the customer received no service. SDG&E voluntarily withdrew its proposal immediately after receiving the Center's challenge.

Under PUC rules, qualified intervenors who are recognized in a PUC order as having substantially contributed to the outcome of a PUC proceeding and to a benefit bestowed upon ratepayers are eli-

gible to apply for compensation for their appearance. This "intervenor compensation" system is designed to encourage ratepayer representation in utility rate proceedings.

Because SDG&E withdrew the proposal, no order denying it was ever issued. On the intervenor compensation issue, CPIL argued that the PUC's rules should not enable utilities to make inappropriate rate requests, test the opposition and then withdraw them if the response clarifies their implications without compensating the intervenor.

In awarding compensation to the Center, the Commission noted that "in this proceeding, SDG&E presented a number of controversial proposals that were eventually withdrawn. While SDG&E should be commended for its willingness to rethink positions, this approach could cause intervenors to spend their limited resources without compensation."

International study broadens students awareness of legal, cultural differences

by Dave Olan

Each year law students are taking advantage of the many opportunities to study in a foreign country for credit. Study abroad offers students cultural insight into while they gain substantive knowledge of international law.

Study abroad programs exist worldwide. England is a traditional favorite with American students because our legal system evolved from the English common law. Some schools, like USD, even have internship programs allowing for students to work with English Barristers in London. The world-renowned universities of Oxford and Cambridge are also popular places to study.

The continent has many countries which host American students. In Italy, Florence and Rome, have law programs. Last year some USD students had the chance to study in Spain, which has increasingly become a significant economic power due to its recent alliance to the European Economic Community. The Scandinavian countries have also hosted American law students.

France has always been a favorite coun-

professor would want to take a paid vacation. Another great selling point is that the classes are much more interesting than typical "domestic" law school classes. Study abroad gives one a chance to meet students from other schools and other countries.

As relations between Eastern Europe and the United States open further, study there will prove increasingly valuable. USD's Russia/Poland programs allows students to learn more about the shrouded socialist bloc. McGeorge has a program in Budapest, Hungary.

Mexico is a very practical country for American law students. Our southern neighbor is important for trade and security reasons. Also, the great influx of migrant workers coming from Mexico to the United States has serious political and moral implications. Mexico offers scenic travel site and is affordable on almost any student budget.

Many students have studied in Far East locales like China or Japan. The Orient is becoming key for international business and study there is invaluable for the business-minded. Hong Kong, Tokyo and Beijing all host study programs.



Photo Courtesy of Dave Olan

Last summer a USD study group was under the tutelage of then-Professor Anthony Kennedy (in glasses) in Salzburg, Austria, shortly before Kennedy became Supreme Court Justice Kennedy.

try for American law students, not only for its romantic ambiance, but also because of its tradition as a center of diplomacy. Most of the existing programs are in Paris, but there are also programs in Strassbourg and other cities.

This past summer, seven of USD's students took advantage of McGeorge's program in Salzburg, Austria's picturesque baroque city. This program's "guest star" lecturer was Supreme Court Justice Anthony Kennedy. Being in this remarkable city with such a brilliant professor was an unforgettable experience.

Certainly, students gain a tremendous advantage in going abroad. The faculty is usually outstanding because almost any

Some schools have programs in exotic countries like Kenya and Barbados. Last summer, Dewey Howard, a USD third-year, studied in Nairobi, Kenya. He commented that it was interesting to study international law from a third world perspective.

The choices of host countries for study abroad are practically limitless. Some very resourceful students have even gotten credit for internships in U.S. embassies or international organizations. For a student interested in international law, or just a student who wants to broaden his or her perspective and have a great time doing it, study abroad programs are the way to go!

Motions writing and submission guidelines

Stories should be submitted on 5 1/2" IBM-compatible floppy disks along with a printed copy of the story. The name of the file and the word processing program used should also be noted on the story. (Although the larger floppy disk is preferred, a 3 1/4" disk is acceptable.) Double-spaced typewritten copy is also acceptable. Cartoon and graphics can also be submitted on disks via the following listed program files. Disks will be returned to the authors.

The following programs are translatable by Motions' publishing program. If your word processing program is not on the list the story should be downloaded on ASCII text, a common computer language used in most word processing programs. The translatable programs are:

PC-Write Wordstar 3.3

Office Writer Digital DX
DCA Revisable Windows Write
form text Xywriter II
Wordperfect Microsoft Word
Dbase Multimate

The following graphics programs' files can also be directly imported to Motions:

CGM Graphics Import
Video Show Import
MacPaint
Mouse Systems PC Paint
Datacopy Image Format
Aldus TIFF file
PC Paintbrush
Windows Paint
Windows Metafile
In*a*vision
Windows Draw!

Coretta King at USD for Women's Week

by Gayle Thorne

The Women's Law Caucus is planning a series of speakers during International Women's Week, March 6-10. Speakers scheduled include the Hon. Judge Judith McConnell, Coretta Scott King, the Hon. State Assemblywoman Lucy Killea and Dr. Sarah Weddington.

Judge Judy McConnell is the presiding judge of the San Diego Juvenile Court. In days when women were not very welcome in the legal profession, McConnell did trial work for the state Department of Transportation in San Diego before her appointment in 1977 to the Superior Court bench. In late 1981, she accepted judicial assignment to Juvenile Court.

McConnell co-founded the National Association of Women Judges with Supreme Court Justice Sandra Day O'Connor. McConnell is also co-founder and first president of the Lawyer's Club, San Diego's feminist bar association. Judge McConnell will address USD law students on March 7 in the UC Forum A.

Coretta Scott King will address the university community on civil rights and the Third World on March 8 in the Camino Theatre. This even is co-sponsored by five university organizations including the Women's Law Caucus and the Black Law Students Association.

Assemblywoman Lucy Killea is tentatively scheduled for Thursday, March 9 in the UC. Killea, a USD alumnus, earned her doctorate from UCSD in Latin American History. She was formerly the highest ranking woman in U.S. intelligence working for the CIA. Today, she chairs the International Trade and Inter-Governmental Relations committee. She is one of the few assembly members to serve on the prestigious Rules Committee.

Sarah Weddington will address USD on

Friday, March 10 in the Camino Theatre. Dr. Weddington will the past, present and future of *Roe v. Wade*, the landmark 1973 Supreme Court decision on abortion. She was 26 years old when she argued *Roe*, making her the youngest woman in history to argue and win before the Court.

Students may be interested to know that the Supreme Court recently granted certiorari to hear a case that directly challenges the *Roe* decision, *Webster v. Reproductive Health Services*, 88-605, Missouri. *Webster* involves legislative language that declares life begins at conception. The Court is expected to hear oral arguments in April.

Conference on Women and Law

The Twentieth National Conference on Women and the Law is being held in Oakland from March 30 through April 2 at the Hyatt Regency Hotel. Registration is only \$45 and scholarships are available by pre-registration.

Several Caucus members are going to attend. Any student interested in attending should contact the Women's Law Caucus, Ext. 4345. The conference features a vast array of workshops on numerous topics from a feminist perspective. It is guaranteed to be fun and educational!

Annual Faculty Auction

The Caucus plans to continue its tradition hosting an annual Faculty Auction. The auction will be held in April where students bid on unique, generous donations from the faculty. Past auctions have included rides in exotic sports cars, dinner and evenings with faculty members, and unusual services rendered by faculty. It's an event students cherish every year.

The Women's Law Caucus urges all students to attend their meetings and get involved in campus activities. Meeting notices appear in the *Sidebar* and elsewhere.

Court externships offer view into 'secret' judicial rituals

by Starr Lee

The end of my first year of law was approaching and I was still unemployed for the upcoming summer. As I had never worked at a law firm before, good grades were just not enough for the firms to whom I had applied.

However, a book in the Career Planning office caught my eye, "Judicial Clerkships/Externships." I thumbed through it thinking about the chances of getting a judicial clerkship after graduation when I noticed that many courts wanted law students, not graduates to work with them. The students were "paid" with school credit, and experience and exposure to the mysterious inner workings of the court system. I dove in.

So instead of researching and writing mere motions and complaints, I "paid to play" at the Fourth District Court of Appeals in San Diego. I paid the school for four credits and then went to "summer school" as an extern at the court, researching and writing draft opinions and memos.

There are many externships opportunities available in San Diego alone because of the various courts based here. Almost all courts have some kind of externship program offering students the chance to see how the law really works: from the realities of the fast track system to what contributes to winning (or losing) a case.

As a pre-second-year student, I wondered how the court could dare to rely on me as I felt my little bit of knowledge slipping away. Realizing the frailty of some law students, they did not hold my hand but they didn't throw me into the melee head first. In my first case I researched several of the issues in a sex abuse case to assist "my" judge's research attorney. The next case I was on my own but research attorney Judy Bambase was always there to discuss with me which trails to discard or follow and research tips.

Working at the court gave me an insight into how a case goes through pre-trial hearings and motions, a lot of administrative work requiring specificity and thorough trial, and on to appeal. I had to read many trial transcripts, trial briefs and appellate briefs during the summer as well as hearing some good, and some inadequate, oral arguments.

I learned that the judges are not acting

like gods at oral argument but truly trying to find answers and insights into issues of a case on which the appeal might hinge. They are not there to terrorize young attorneys. However, you still don't want to get caught trying to press the court's patience by not knowing answers when you should or breaking procedure.

Good presentation counts

Writing a good brief does matter, even if you don't have a winning argument. At the appellate court, the various briefs (Respondent, Petitioner, Reply) have different color covers so they can easily be detected. Most briefs were nicely typed with card stock covers, with no noticeable typing errors. However, I read briefs in torn construction paper covers with penned corrections all over the brief; I tried to look up cases that didn't exist because they had been either made up or badly cited. There was bad grammar, bad arguments and bad lawyering coming through on those briefs.

The judges notice these items and to some degree a badly written (argument or presentation) brief can reflect on the credibility of the writer, therefore on his arguments. The lawyer with the best written brief, with well-thought out arguments and presentation, may not win but he earns the judge's respect.

I heard more than one judge commenting that a certain side was represented by X, Y and Z firm with an approving tone because of the firm's good reputation. One judge even commented that after one case had been filed he might let one of the attorneys know that, although his side had lost, that the brief had really impressed him with its analysis, clarity, brevity and thoroughness.

Working with various types of cases also helped me to narrow down the types of law I would like to pursue. An appellate court handles everything from property to criminal to constitutional deprivation cases. In one summer I worked on five cases, each in a different area of law. Some of the areas do not interest me for future practice but are still fascinating to research and discover. After working on cases involving divorce, sex abuse and robbery I have decided on working in other areas of law, mainly because of the emotional turmoil in these areas. Yet now I have some first hand

(Continued on page 13.)

Master of Laws Boston University School of Law

LL.M. Degree in Banking Law Studies

A unique graduate program offering separate, multi-disciplinary courses of study in **American Banking Law Studies** and in **International Banking Law Studies**.

Taught by faculty of the Boston University School of Law, eminent banking law attorneys and management experts, these innovative programs provide an exceptional blend of intellectual and practical education at one of the nation's most prestigious law schools. Covering the full range of advanced banking law subjects, the curriculum also includes courses specially developed to introduce lawyers to the economic and managerial aspects of the domestic and international financial services industry.

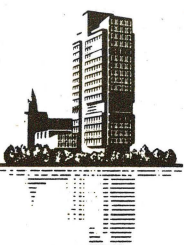
This comprehensive LL.M. program offers a singular educational opportunity for lawyers who wish to practice in these dynamic, fast growing areas of specialization.

Applications are now being accepted for full or part-time enrollment in September 1989.

For a catalog containing detailed information and application forms, write:

Graduate Program in Banking Law Studies
Morin Center for Banking Law Studies
Boston University School of Law
765 Commonwealth Avenue
Boston, Massachusetts 02215

or call: 617/353-3023



Faculty evaluating mid-terms

by Charles Hrvatin

Mid-terms are still a few weeks away, and, yes, they are still going to be given; but the future of these intrasemester challenges remain in the balance. At least until the Teaching and Testing Committee has the opportunity to compare the positive and negative effects of this semester's mid-terms with the results compiled from the fall semester.

Professor Kevin Cole leads the delegation on the Testing Committee as they gather data on tests as well as feedback from the students.

According to Cole, a survey is being prepared to get a read on the students feelings and to get input regarding particular problems.

Following the Fall mid-terms, a petition had been circulated by students, but Cole said that he hadn't gotten wind of it and that the committee was primarily concerned with "identifying difficulties" and "collecting observations."

Therefore, the Testing Committee's survey will tentatively be conducted in two parts. The first will be a controlled group to get a "well-rounded view." The second survey will be random in nature open to all that wish to participate. The purpose here will be to have the control group for more accurate responses than the possibly statistically-skewed ones that may be elicited from the random-survey.

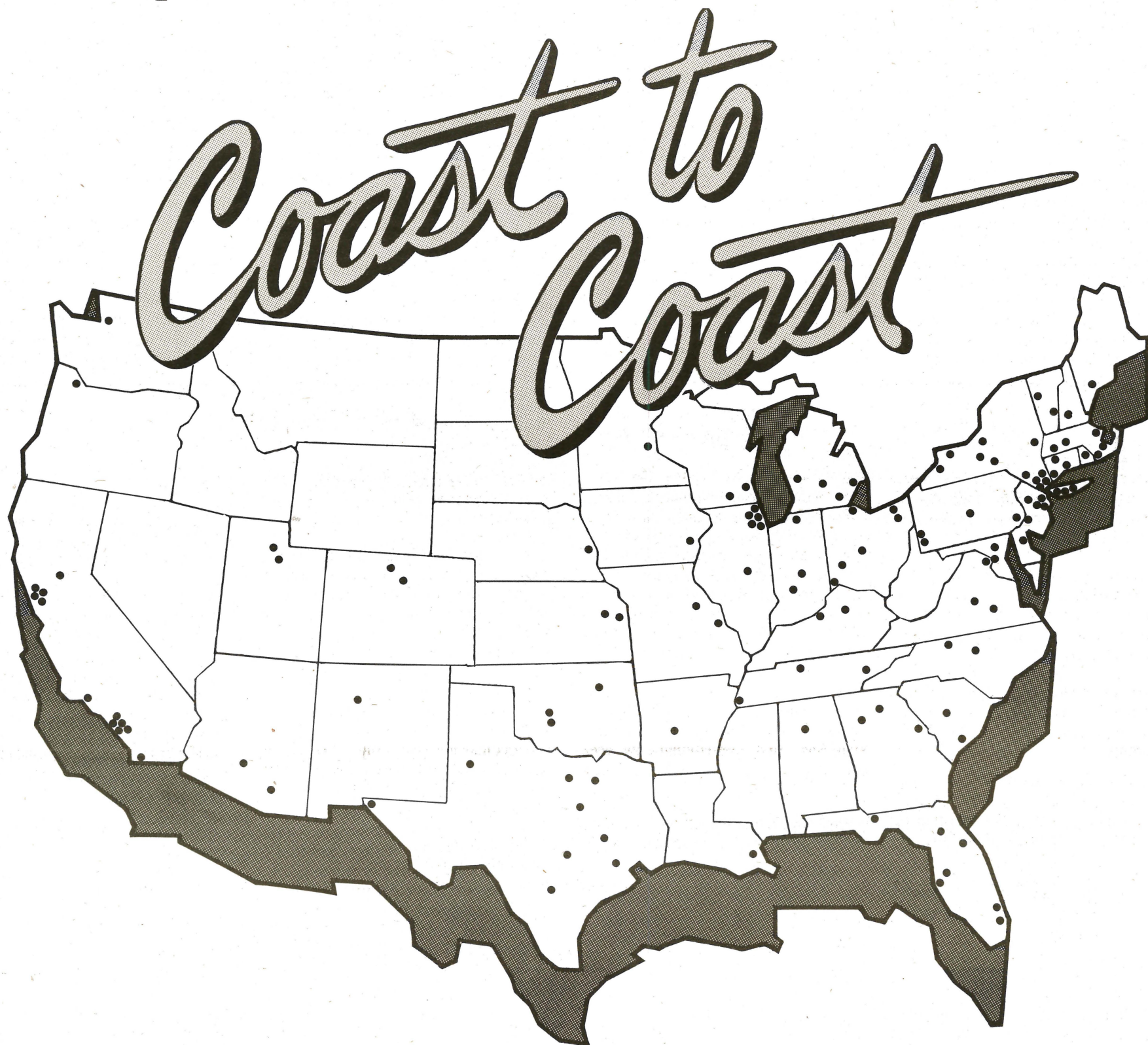
Problems already identified include the value of mid-terms to students when the test is dissimilar to the final, the strain of test preparation to both student and professor, the economics of giving mid-terms and the infringement on class preparation time for student and professor. Other factors that gravitate to a negative response are the bunching of exams and testing fatigue or simple burnout.

These must all be weighed against the obvious positive effects such as learning what is expected of an unfamiliar teacher and increased feedback highlighted by grading of intermediate knowledge gained through the partial completion of the course.

It should be pointed out that the Teaching and Testing Committee is not an advocate of one side or the other. The panel is specifically a fact-gathering body which will turn its results over to the faculty before final decisions are reached. At this time the future of mid-terms will depend on how the faculty balances student and staff evaluations of mid-terms, the positive and negative affects present and economic issues that affect the ability to administer proper tests.

What it all boils down to is "time will tell." More information is necessary including results from the upcoming mid-terms and student input. Student feedback is not only appreciated but sought. This story will continue.

Expert Bar Review Where You Want It



**Over 100 Centers Nationwide Offering
Proven Preparation For The Bar Exams Of:**

California
Colorado
Connecticut
Dist. of Columbia

Florida
Illinois
Maine
Maryland

Massachusetts
Michigan
New Hampshire
New Jersey

New Mexico
New York
Pennsylvania
Rhode Island

Texas
Vermont
Virginia



STANLEY H.

KAPLAN-SMH
BAR REVIEW SERVICES

(800) 223-1782 (800) 343-9188

See your Campus Rep, or call:

David Bigelow
277-6744

USD announces drive for \$47.5 million for LRC, all-university improvements

The library campaign fund is growing steadily towards its \$6.2 million goal. As of January 26, \$3.3 million, or 55 percent, has been raised towards that goal, according to Josiah Neeper, managing partner of Gray, Cary, Ames and Frye, and member of the Board of Trustees.

This was announced on January 26 at ceremonies where USD announced its kickoff of a \$47.5 million capital campaign, its largest ever and among the largest in San Diego county history. The five-year campaign, entitled "Education for a New Age," will implement a wide-ranging expansion of academic programs, student and faculty recruitment, student scholarships and facilities affecting the whole university. The New Age campaign to date has raised \$21 million.

The Campaign Executive Committee, made up of 13 of the region's civic, business and religious leaders, plans to raise \$31 million for endowment funds to support teaching and student scholarships, and \$16.5 million to meet key facility needs.

\$12 million of the funds raised will be used to help enroll more minority students, said USD president Arthur Hughes. "A diverse student body enriches the educational mix," Hughes said. The \$12 million will be put into investments which should generate about \$1 million a year for student grants and loans.

Since 1984, about 12.5 percent of the students at USD (graduate and undergraduate) have been from minority groups. Hughes said USD would like to raise this level to 20 percent within five to 10 years.

\$16.5 million of funds raised will go to hire and retain faculty scholars and provide travel and study opportunities and \$2.5 million will form an unrestricted endowment. (USD currently has a total endowment of \$10 million.)



Photo by Robert Swain

Work is progressing on schedule for the Legal Research Center as the campaign progresses as well for the construction funds.

The remaining \$16.5 million will be applied to campus building projects including the Law Library (or Legal Resource Center, as it will be called), \$7.5 million towards the already open University Center, \$2.5 million to convert the main thoroughfare into a pedestrian mall, and \$500,000 to build a child development center for up to 60 children of USD students and employees.

The Law Library campaign staff has been organizing challenge gifts as a means of raising funds. Presently, a member of the class of 1977 has challenged other members of the class to raise \$25,000 as a group. He will match the amount they are able to raise.

Faculty Briefs

Adjunct Professor **Richard Huffman** was recently given the 1988 Trial Judge of the Year Award by the San Diego Trial Lawyer's Association.

Professor **Lou Kerig** presented "Selected Significant Points on Courtroom Evidence" at the 1988 Criminal Law Seminar presented by the Nevada State Bar in December.

Professor **Herbert Lazerow** has been elected to the American Law Institute. He has been appointed to the ALI's Tax Advisory Group.

Director of the Annual Fund and Alumni Programming for the Law School, **Barbara Mendelson**, completed her MBA in January, 1989, at National University.

On December 1, 1988, **Harvey Levine** became president of the California Trial

Lawyers Association, the first San Diegan to become president. He worked extensively this past year on the insurance rate regulation initiatives.

As CTLA president, he will assume responsibility and focus efforts to educate the public regarding the vital "prevention of injury" characteristics of tort law and the important function of tort lawyers in reducing and preventing injuries.

Professor **Joe Darby** served as moderator of a panel on "International Law and Legal Education" as part of the California State Bar's first International Law weekend held in San Francisco in November, 1988.

Professor **Larry Alexander** moderated the Association of American Law School's (AALS) Constitutional Law section's panel at the January convention in New Orleans.

Alexander also presented papers at Northwestern Law School and at a conference in San Diego.

Professor **Hugh Friedman** has stayed busy as usual in 1988. He spent two months in Japan where he lectured on topics such as Mergers and acquisitions in the U.S. and international business transactions. In October, he participated as a member of the California Commission on Corporate Governance, Securities Transactions and Shareholder Rights at Harvard's John F. Kennedy School of Government.

Friedman has also completed revisions to his two-volume treatise *California Practice Guide: Corporations*, which will include 1988 developments.

Professor **Sarah Smith** prepared new materials for the Tax I course and estate planning for the taxpayer with children

with exceptional needs.

During the last couple months, Professor **Don Weckstein** has addressed several groups such as the California State Bar Lawyer Referral Committee on Unauthorized Practice of Law, the North Coast B'nai Brith Chapter, and the American Inns of Court, Welsh Chapter, San Diego.

As chair of the State Bar Commission on Corrections, Professor **Laura Berend** conducted meetings and the Commission examined the facilities in Stockton, San Luis Obispo and Pleasanton and commented to the State Bar on legislation pending in the corrections area.

Visiting professor **Charles Morris** from Southern Methodist University participated

(Continued on page 15.)

High 61.3% of USD first-time takers pass July California Bar

Fifty-five percent of USD School of Law graduates taking the July 1988 California Bar Examination were successful. Former Dean, Sheldon Krantz, was among those passing the California Attorney's Bar.

In figures released by the Office of the Dean, 63.6 percent of all USD first-time takers

passed, breaking down into 61.3 percent of day students and 75 percent of the evening division graduates. The overall breakdown was 54.4 of the daytime and 61.2 of night students.

The 52.3 percent state passing rate was one of the highest ever as over 7,000 new attorneys will be eligible to practice law in the state.

Below is a complete list of USD alumni who passed the July 1988 Bar Examination:

THE CALIFORNIA BAR

Amato, Dale Alan
Arcaro, Georgina Rosary
Aughinbaugh, Sandra Kay
Avila, Leonor Cardoso
Barnes, Carrie Eileen
Barnes, Jennifer James
Baron, Joyce Lynn
Barrett, Kevin Francis
Beazley, Elizabeth Pauline
Berman, David Michael
Bernhardt, Robin Maile
Berry, Carol Ruth
Blakley, Felicia Faye
Bott, Charles Andrew
Brew, Sean
Brody, William Stephen
Bull, Joy Ann
Burns, Brenda Lee
Carrillo, Alida Judith
Carson, John Montgomery
Chahin, Sonia Elizabeth
Chase, Therese Loob
Chelsea, Susan Kay
Chiasson, Stephen John
Clement, Lesley Ann
Cohen, Michael Nathan
Collins, Robert Kelly
Corfield, Michael Alan
Courtney, Thomas Edward Jr.
Cox, Ralph Frederick Jr.
Crahan, Patrick James
Cross, Janet Mary Sarah
Daly, Brenda Jean
Danskin, Samuel Morton

Delmore, Paul John
DeSantis, Kevin V.
Dikmen, Theodore
Donch, Terese Elizabeth
Dunham, Maria Christine
Eggemeyer, Teresa Caroline (Burrow)
Epperson, Kristin Lynn
Eguals, Tamara Lynne
Ergatolo, Joseph Thomas
Eriqat, Victoria Alderman
Escobar, Ana Maria
Ewy, Gordon Stuart
Faith, Karey
Ferguson, Jon David
Fiedler, William Lawrence
Frederick, James Lewis
Freeburg, Michelle
Galt, Jason
Gilbert, Tania
Girtin, Jodi Lee
Gleason, Gary Robert
Goodman, Linda Lavonne
Goyette, Paul Quentin
Greene, Terence
Gregory, Ronald Dean
Griswold, Valerie Anne
Haerr, Roger Cooling
Hager, Barry Eugene
Hall, Scott Middleton
Hamer, Theresa Marie
Hamlin, Jack Bradley
Hammond, John B.
Hecht, Julie Lynn
Henderson, Christopher John
Hibbs, Melissa Lee
Hnylka, Joseph Michael

Hoffman, Holly Ann
Hogan, Daniel Francis
Holt, David Christopher
Howes, Marlin Ellsworth
Hulburt, Robert Christian
Hyland, Charles Joseph
Jancarole, Frank B.
Jones, Robert Campbell
Kapteina, Carianne Eileen
Katsell, Jerome Howard
Kelter, Robert Jerome
Kennedy, Rosalind Ann
Klockenbrink, Paul Granger
Kurimay, William Coleman
Landis, Harold Randall
Lesser, Judith Ann
Liuag, Randy
Lockhart, Jacqueline Jo
Lynch, Catherine Gayle
Maas, Earl Harry
MacDonald, Robert Bruce
MacPherson, Laura Norris
Marblestone, Alisa Lynn
Markel, Michael Allen
McCabe, Michael Robert
McDonnell, Leslie Ann
McGrew, Terri Michelle
McIntyre, Michael Luis
McKasson, John Kurtis
McKinney, William Brian
McNulty, James Edward
Means, George Martin II
Milmer, William Leroy
Moble, Cynthia Ann
Mott, Joanne
Muir, Richard Rusby

Nakaoka, Carrie Lyn
Nalven, Joseph Gilbert
Neglia, Mary Eileen
Nelson, Audrey Viola
Nelson, Paula Ann
Noll, Cheryl Ann (Black)
Noya, Scott Anthony
Nuesca, Mary Theresa
O'Brien, Paul F.
O'Neill, Kathleen Therese
Olcott, Lynne Marie
Orcino, Rose Marie
Pachowicz, Mark Richard
Pollot, Mark Lee
Quinn, Jammie Lynne
Ramirez, David Phillip
Ramirez-Cardenas, Julie Wahlen
Reilly, Carolyn Louise
Richardson, Catherine Ann
Sandler, Scott Alan
Schafer, Timothy John
Schulz, Keith Thomas
Schwaabe, Leslie Kathleen
Schwartz, Jill Clare
Scott, Klysta Jay
Seibert, Kail Queen
Shipley, Richard Harvey
Simon, Leslie Ann
Simons, Andrew David
Sirota, Gary Lee
Solon, Stephen John
Stahl, James Edward
Staub, Keith Miles
Stevens, Richard William
Stevens, Todd Frederick
Stock, Laurie Jane

Stone, William M.K.
Stratton, Mary Elizabeth Maxwell
Stubbs, Kimberlee Sue
Tanney, Laura Eileen
Taylor, Scott Charles
Valliant, James Stevens
Vandeveld, Amy Beth
Vanites, Georgia
Vattuone, Richard John
Vipond, William Fraser Jr.
Waller, John Hilleary
Walters, Elizabeth Ann
Watson, Stephen Allen
Webster, Richard Edwin
Wheatley, Shelley Anne
Wirtz, Richard Michael
Zarlengo, Dianne Elizabeth

THE NEW YORK BAR

Gross, Monika Elizabeth
Hull, Robert Alan
Riley, John Edward
Sacks, Warren S.
Yi, Michael Munjun

THE NEVADA BAR

Blalock, Edward L.
Duckett, Jerome P.
Gale, Bruce L.
Ogdon, Mitchell
Soderberg, Donald L.
Tarkanian, Daniel J.

USD volunteers advocate change in vagrancy statute

(Continued from page 3)

This sort of enforcement policy only tends to harass an individual and makes him liable for his status, or alleged status, as perceived through the eyes of a police officer. The ACLU builds on *Robinson*, arguing that the homeless person commits no actus reus and possesses no mens rea merely by his condition (status) of being homeless.

A law which punishes someone for "an

ing they are homeless.

While Homann characterized the convictions by Judge Langford as "mean-spirited," City Attorney Ward Clay thought that the ruling was "accurate" and "a correct statement centered on the legal issues." However, even if the judge's statements reflected a correct and "very accurate" legal pronouncement, the attendant realities, as well as the subsequent events of these three cases in particular, illustrate

butter knife, a rough and ragged piece of cement, if anything, provides the individual with assuring and vital protection.

Additionally, Clay noted that the homeless do not respond under a legal duty to appear in court and seem much less interested in their own legal defense and in absolving themselves than do their attorneys. Most don't seem to appreciate or take advantage of free legal help. However this amounts to circular reasoning: The homeless are being harassed for being homeless and then are expected to vindicate themselves by being homeless.

How do they pay fines?

The citation also carries a monetary fine, which seem ridiculous considering most homeless persons have no money. If a homeless person were to abide by the law's expectations of an upright citizen, he or she would appear in court unable to pay the fine and then be held in contempt of court. The only way to pay the fine would be to submit to an order to do community service such as sweeping sidewalks to pay back "the debt to society." That person will still be homeless and subject to the same unyielding law the following morning.

It would seem much more sensible, humane and economically efficient if the San Diego Police were trained to refer a homeless person to a social agency or some other helpful service. The ACLU's amicus brief mentions that as a result of a 1987 court challenge to threatened arrests of homeless for sleeping on the sidewalks in Los Angeles, the Los Angeles Police entered into a settlement.

The Los Angeles Police agreed that no arrests would be made unless the homeless were first offered transportation to an

available shelter and the offer was refused; no arrests would be made if shelters were not available. Cruel and unusual punishment as well as the necessity defense were argued in that case.

In the present case, neither the defense nor the city officials of San Diego can name the source generating the enforcement policy of §647(i) through the ticketing of suspected homeless persons. Yet no one is aware whether many other cities, if any, are applying this statute in this manner. Some attorneys involved with these cases suspect that San Diego is unique in implementing this enforcement policy. So, where is the source of this policy: the police, the mayor, the city manager, the downtown developers, shop owners and municipal agencies?

As a City Attorney, Clay comments that it is not for him to say where the law is good or not. Nonetheless, it seems perfectly sensible for the City Attorney to recommend to other city officials that Los Angeles has enacted a compelling policy regarding enforcement of the loitering and vagrancy statutes, and maybe it would be correct for San Diego to follow suit.

Since no one official seems to know who implemented the policy, why can't the Chief of Police decide to do things differently? Policies sometimes can be changed just as easily from shifts in attitudes rather than waiting for the bureaucratic machinery to implement a change.

Funding of shelters, skilled social workers, employment counselors and nationwide computer information links to benefit the homeless and poor should be at the top of agendas when mayors and governors attend their national conferences.



Photo by Peter Allen

Sitting in the park can be dangerous for some persons if the SDPD consider them to be "homeless." However, being homeless is considered a defense to the vagrancy charge.

involuntary manifestation of the status of homelessness," according to the amicus brief, not only violates that person's Constitutional rights, but goes contrary to all notions of the requirements of criminal culpability, rendering homelessness a strict liability offense.

Affirmative defense: necessity

The ACLU also proffers as an alternative defense the affirmative defense of necessity. The underlying common sense argument stresses simple wisdom: all humans have to sleep whether homeless or not and it should not be a crime for a person to sleep outside if he has no other choice.

The necessity doctrine would apply if §647(i) withstands the constitutional attacks. The brief argues, "Because a decision by a homeless person to sleep in public is reasonably necessary to avert more serious harm to both the homeless person and society, the decision is insulated from criminal liability by the doctrine of necessity." This strained rationalization of a social ill, though necessary in the present case in order to ensure protection of an innocent client, is still no less cumbersome than the rationale underlying the trial court's opinion in cases defended by Homann.

In those seven or so cases, three were dismissed before trial for having no factual basis. One case, involving a married couple who were cited and failed to appear three times in court, was dismissed finally by the prosecutor.

Homann continued to volunteer his services and received a batch assignment of six cases of this type. In each of these cases Homann's demurrer contesting that the statute was unconstitutional on its face was overruled.

Homann then filed writs of habeas corpus for the remaining three defendants, again citing the unconstitutionality of Penal Code §647(i). The trial judge rejected the writs. Yet it was the ruling of trial judge Perry Langford which greatly disheartened Homann.

Judge Langford noted that the absent defendants could rely on a meritorious defense on a case-by-case basis if the facts showed the defendant was indeed homeless at the time of the citation.

Although this gives some comfort to the defendants, it is evident that any involuntary manifestation of homelessness by a person in San Diego will be subject to harassment. According to Judge Langford's opinion, individuals will be subject to being hauled into court for being homeless, obligated to defend and clear themselves from charges of criminal conduct by prov-

the utter futility of such an enforcement policy.

For example, Judge Langford was forced to issue bench warrants for the three defendants as they had since disappeared. Fortunately, Homann noted, the prosecutor again, in an humanitarian action, dismissed these final three cases, obviating the need for the judge to issue the warrants.

Out of exasperation, Homann was forced to forego defending any such cases at least for now and into the near future. Homann's clients were not necessarily responsive to court actions nor was it easy for he and his clients to contact one another. Homann would typically contact one defendant by searching for him on a street corner which the defendant ordinarily frequented. Others maintained contact with Homann via contacts at The Coalition of the Homeless or the St. Vincent de Paul organizations.

To what purpose?

These realities only beg the question of what is being accomplished through enforcement of Penal Code §647(i). Judicial enforcement is frustrated and tax revenues are wasted over proceedings affecting invisible, absent and disappearing defendants. It seems apparent that police are simply waking up homeless individuals and ticketing them with a criminal violation in the hopes that they will move on.

Perhaps there exists the theory that San Diego's reputation for enforcing the statute will become generally known and deter homeless people from coming to San Diego's beautiful, warm region and making it their haven.

It is surprising to find that both the judge and the city of San Diego persist in permitting and encouraging the enforcement of §647(i), especially when it appears so futile and discriminatory. The rationales offered seem to miss the mark.

City Attorney Clay said that many homeless do not want to avail themselves of shelters. Many choose to sleep outside, he said, because, for their own reasons, they do not want to comply with the rules of the shelters such as no weapons, narcotics or unmarried couples allowed.

Based on authorities, the amicus brief claims there are at least 5,000 homeless persons in San Diego on any given day and yet there are only 900 shelter beds available. In the first six months of 1988, 3,840 individuals requested shelter to find that all available beds were already filled.

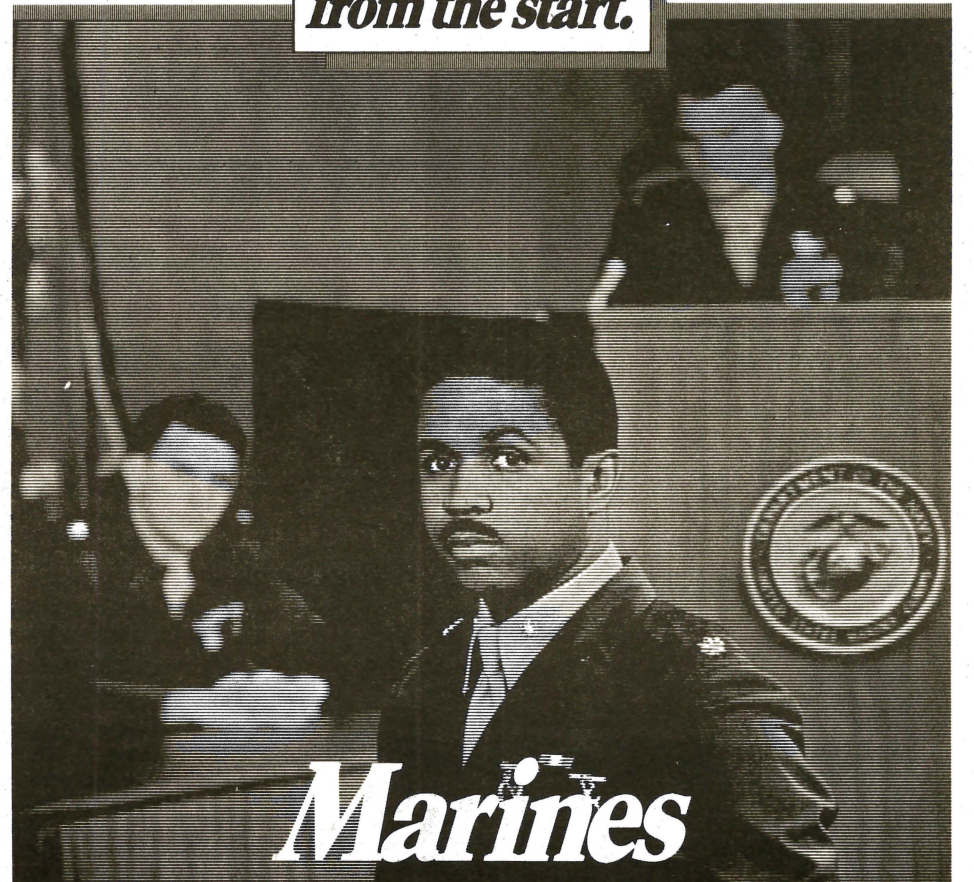
As to the inference that many homeless are gun-toting drug addicts, it should be noted that many homeless live in fear of robbery and harm while forced to live on the streets; a "weapon," often a fork,

You'll get first hand experience in the courtroom right from the start. In three years, you could handle more than 3,000 cases in a wide variety of subjects from international to contracts to criminal law. If you think you have what

it takes to be a Marine Corps Officer and lawyer, talk with the Marine Corps Officer Selection Officer when he visits your campus.

**Have
190,000 clients
from the start.**

More than 190,000 Marines could use your service. We're looking for a few good men.



Please call Captain Juarena at 294-2174 for an appointment to interview

Judge with first-hand experience with desegregation at USD

by Charles B. Andre

Occasionally USD law students have a rare opportunity to hear the first-hand views of a distinguished member of the bench. On Monday, January 23, two constitutional law classes had such an opportunity. Their guest speaker was Justice Gerald Haney of the U.S. Court of Appeals (8th Circuit).

Haney came to San Diego to attend a three-day conference of the 8th and 10th Circuit justices and was invited to talk to students at USD by his personal friend, Professor Karl Auerbach.

The focus of Haney's discussion was school desegregation in St. Louis and Kansas City, Missouri. As the second most senior member of the 8th Circuit, appointed to the bench during the Johnson Administration in 1966, Haney has considerable first-hand experience with the desegregation issues confronting these two large metropolitan cities.

The court decisions that emerged during this period of civil rights reform are a source of great satisfaction to Haney, who is firmly committed to improving the quality of public education in these and other school districts.

"Our nation can survive budget and trade deficits," Haney said. "But I don't think we can survive as a democracy unless we get minorities to participate fully in society. We have to find a way to give everybody an equal opportunity for an education, a job and a home."

Missouri was slave state

Haney began his discussion of school desegregation in these two cities by pointing out how the slave state history of Missouri fostered discrimination against blacks. This feeling was reinforced by the ill-

conceived *Dred Scott* decision (1857), which declared blacks an inferior race and denied them the rights of whites.

The Civil War promised reforms, based on federal civil rights laws, but these reforms were short-lived as Conservative Democrats regained state control and passed new segregation laws. The U.S. Supreme Court then gave its nod to segregation, embodied in the "separate but equal" ruling of *Plessy v. Ferguson* (1896). As Haney noted of this decision, "In Missouri and the rest of the nation, however, separate did not mean equal."

Up until the mid-1950s, segregation could be found in virtually every element of society: education, housing, employment, public accommodation. Haney noted black children either went without education or received an inferior education; black adults were either unemployed or had low-paying, unskilled jobs.

Despite the famous *Brown v. Board of Education* ruling (1954), Missouri's metropolitan school districts remained segregated. As Haney remarked, "This long history makes integration in the schools very difficult." Approximately 25 percent of the students in St. Louis and Kansas City were white and attended predominately white schools through the late 1970s. During the same period, 75 percent of the students in each school district were black and attended schools that were virtually 100 percent black. At the same time, 50 percent of white students attended private or parochial schools.

Compounding the problem of segregation was school underfunding. Since eight of 12 school board members in St. Louis were white, for example, the teachers were underpaid and bond issues or tax hikes for improved educational facilities didn't re-

ceive their support and weren't passed. The result was an inferior public education for black children living in these cities.

In 1979, seven years after the NAACP first tried to desegregate the St. Louis school system by consolidating city and suburban schools, the district court ruled these schools were already desegregated. The matter then came before Haney's 8th Circuit U.S. Court of Appeals, which reversed the district court's ruling. In doing so, however, the 8th Circuit had to come up with a plan by which the schools could be desegregated on a voluntary basis.

The novel plan approved by the Circuit court (7-2) called for a targeted goal of 15,000 black students from city schools to attend primarily white suburban schools.

To make the plan work, the state agreed to pick up the annual transportation costs of approximately \$1,500 per student as well as a "tuition-like" payment of approximately \$4,000 per student to each participating suburban school. The plan was also accepted because it deftly sidestepped the more emotionally charged issue of consolidation.

Magnet schools to be established

The Court also approved a plan to establish mixed-race "magnet schools" with an enrollment goal of approximately 14,000 black and white students, 75 percent of the cost to be borne by the state. The remaining black students were to remain in mostly black neighborhood schools, but class size was reduced from 34 to 20 pupils per class to provide better quality education. The State would pick up 50 percent of the cost of this program. The total cost to the State for desegregation programs in St. Louis approached \$90 million for 1987-88.

As a result of this plan, black students in

St. Louis have several options for their education, ranging from suburban integrated schools to schools in their own neighborhoods.

Haney notes the plan has been very successful in integrating the schools while achieving a higher quality of education. However, white suburban parents still resist the plan because they feel the black students receive more of the teacher's time. In addition, while 13,000 black students currently attend suburban schools, only 700 white students attend the inner city schools. Negative perceptions of city educational facilities still linger.

The plan has also met with opposition from school administrators who are more interested in funding for programs other than desegregation, and from state officials who believe Missouri has already met its obligation for desegregation and should bear no additional costs of the program. This St. Louis case has gone to the Supreme Court on four occasions; each time the highest court has denied certiorari.

The 8th Circuit court has also addressed the issue of desegregation in the Kansas City school system. In 1977, when black parents joined with the school district in calling for consolidation of inner-city schools with suburban schools, the district court settled the discrimination case by ordering an extensive interdistrict remedy.

The quality of Kansas City public school education was improved with better compensatory and remedial programs.

Kindergarten, summer school, tutorial programs before and after school, and early childhood development programs were either originated or enhanced. Teaching methods were improved; class sizes reduced. A \$260 million capital improvement program was approved for completion of new school facilities over five years. All high schools and half the elementary schools were converted into "magnet" schools, each with a different theme of learning. A voluntary transfer program of black students from inner city schools to suburban schools was also provided.

The district court's order directed 25 percent of these costs would be borne by the school district, through a new 1.5 percent state income tax surcharge and higher property taxes. The 75 percent balance would be picked up by the State. The estimated cost to the state for the 1989-90 school year approximated \$93 million.

Plan started despite certiorari

The issue of cost assumption and taxing authority came before the 8th Circuit court in 1988. In a 5-3 vote, the circuit court affirmed the district court's interdistrict remedy, either by consolidation or mandatory transfer, to improve the racial imbalance. Also affirmed was the comprehensive plan to improve the quality of Kansas City education, though the income tax surcharge was rejected and the State was obligated to pick up the shortfall.

Despite a recent certiorari petition filed with the Supreme Court, the educational plan for Kansas City is currently being implemented. Though Haney admits it is too early to say whether the Kansas City plan will achieve the kind of success witnessed in St. Louis, in terms of providing a quality integrated education, some improvements can be measured with certainty.

Ultimately, the answer will lie in how effectively available resources are used and how strong a commitment is made by the Board of Education, school superintendents and principals to see the plan work successfully.

Listening to Haney talk on this subject, one realizes how deeply committed he is to the cause of school desegregation and quality education for minorities. For example, when asked about memorable moments in his career, Haney remarked how good it made him feel to walk through a suburban school and to see black students sharing in the same quality education with whites, knowing that such an opportunity wouldn't have been possible before desegregation.

CA Supreme Court grants CPIL Prop. 68 review

The Center for Public Interest Law's lawsuit to enforce Proposition 68 -- a campaign finance reform initiative passed by the electorate in the June 1988 election -- was given new life on December 15, when the California Supreme Court granted the Center's petition for review and remanded the case to the Fourth District Court of Appeal for further proceedings, including oral argument.

The case involves the Center's challenge to the state Fair Political Practices

Commission's (FPPC) ruling that virtually none of Proposition 68 survives the simultaneous passage of Proposition 73, another campaign reform measure which also passed in June. When two initiatives on the same subject matter pass simultaneously, both must be implemented. In areas where there is "irreconcilable conflict" between the provisions of the two initiatives, the one which received the most votes -- here, Proposition 73 -- prevails.

Proposition 73 prohibits the use of

"public monies" to fund political campaigns in California. Proposition 68 creates a "Campaign Reform Fund" which is fed by voluntary taxpayer-designated contributions on state income tax forms. CPIL contends that Proposition 68's Campaign Reform Fund is not the use of "public monies" prohibited by Proposition 73; rather, the voluntary \$3 contribution is a tax credit, which is not considered "public monies."

The FPPC, which is the state agency charged with interpreting the initiatives, ruled that Prop. 73's ban on the use of "public monies" for campaigns "irreconcilably conflicts" with the Campaign Reform Fund provisions in Proposition 68. The Center challenged that ruling before the Fourth District, which agreed with the FPPC's interpretation and dismissed the Center's case.

The December 15 Supreme Court ruling, however, ordered the Fourth District to reopen the case and issue an alternative writ, thus requiring the FPPC to show cause why the Center's petition should not be granted. Briefing will be concluded on January 31; oral argument will be scheduled in February.

PDP announces '89 Barristers' Ball site

Phi Delta Phi, in conjunction with Barpassers and the Student Bar Association present the 3rd Annual Barristers' Ball. This year's event will be held at the San Diego Marriott Hotel on March 4, 1989. This is a wonderful way to celebrate the conclusion of mid-terms.

Ticket cost will include your choice of two entrees, dessert and a chance to win a Barpassers Bar Review Course. Music for the evening will include a local jazz band and a well known San Diego DJ. More information will be available in upcoming issues of the *Sidebar* and around the law school. Plan now to be a part of this memorable evening.

Third Annual Barristers' Ball



March 4, 1989

San Diego Marriott Hotel

Library offers free and advanced training for student researchers

by Brent Bernau
Asst. Director, Law Library

- Is this your last semester at USD?
- Will you be competing in a Moot Court competition?
- Is this the semester you fulfill the paper requirement?
- Have you just completed the first-year training and want some advanced instruction?
- Do you plan to clerk this summer?
- Are you attempting to write your Law review casenote?

If your answer is yes to any of those questions, now is the time to refresh your Lexis and Westlaw research skills. The Law Library has acquired 20 additional terminals--10 Lexis and 10 Westlaw--for a Temporary Learning Center (TLC) through March 10. Any currently enrolled law student is eligible to take advantage of these extra terminals through additional instruction and/or practice.

The terminals are available basically at all times the library is open. In other words, there is no down time in the middle of the day. There is no limit to the amount of time you may use them. They can be used on a "first-come, first-serve" basis, at any time a training class is not in session. Training class times are posted on the doors of the TLCs. Lexis is in Room 206b; Westlaw is in 213.

Concomitant with the extended hours of availability, Mead Data Central (Lexis), has made certain libraries available to us free of charge for which there is normally a fee. NEXIS is probably the most popular of the additional libraries.

It is a full-text database containing such documents as the New York and Los Angeles Times, the San Diego Business Journal, Associated Press and United Press International wires, the National Law Journal, Sports Illustrated, TASS, Money magazine, Playboy, and the Asahi New Service. A complete list of NEXIS files is contained in the "Lexis/Nexis Library Contents," available in Room 206b.

Other libraries available through March 10 include LEXPAT, the U.S. Patent and Trademark Office Library; COMPANY, a financial information service; ADPR, the advertising and public relations library; COMPCOM, the computers and communications library; and INFOBK, the information bank library. Each of these is described in the "Lexis/Nexis Library Contents."

Refresher tutorials offered

Those of you who were trained on one or both of the systems in the past, but who have not had the opportunity to hone your skills, are encouraged to work through a self-paced tutorial.

Interested students should first stop by the Reference Room to pick up a copy of the introductory materials. This material includes a handbook for Lexis entitled "Learning Lexis," and a white packet for Westlaw which contains a handbook entitled "Westlaw: Introductory Guide to Legal Research." The system's materials should be read before working through the respective tutorial.

The Lexis tutorial is available on Reserve at the Circulation Desk. Students may borrow the tutorial and work through it any time the terminals in Room 206b or the Reference area are available. Reference Librarians or staff in the Microforms/Documents Dept. (Room 210) may be contacted for assistance.

Those interested in a Westlaw refresher should go directly to Room 213. Blue workbooks entitled "DISCourse: Version I" are there for use. Complete instructions for accessing and working through the workbook are contained in that workbook. This is also a self-paced tutorial.

The major difference is that it is a program contained on the hard disk of the computer. This means that the user will be prompted for the "correct" response, which

is obviously a luxury one doesn't get when online.

For students who don't care for the workbook format, Westlaw offers an on-line tutorial. WESTRAIN is a series of 12 lessons which take the user through various aspects of research on Westlaw. These include query formulation, commands, Shepardizing and Insta-Cite. The user can access any or all of the lessons--it's strictly up to the individual.

Accessing WESTRAIN can be tricky. Users are encouraged to ask a Reference Librarian for assistance.

Free Advanced training

Users who have a firm grasp of the fundamentals may wish to participate in advanced training seminars conducted by a representative of each company. Advanced Lexis/Nexis Research Techniques will be held on February 6-7; Westlaw's are yet to be determined. Seminar times and sign ups will be available in the Reference Room.

Only those students who are experienced users or who have a firm grasp of the fundamentals should consider signing up for advanced training.

First-years' training

All first-year law students were required to complete a hands-on session for each system, for the first time in USD's history. The goal is to make every law student familiar with the rudiments of each system. That training is scheduled to be completed Sunday, February 5.

In lieu of an assigned set of problems for these students to complete, they were required to learn both systems. Additionally, they were trained early enough in the semester so that they may choose to use Lexis and/or Westlaw when researching their appellate brief. The 20 terminals used for the TLC's are being provided free of

charge by Mead Data and Westlaw. Each company has installed the necessary phone lines and shipped the computers here. The only costs to USD are the staff time and space used for the trainings.

Spring interviewing tops CPP calendar

by Sharie Johnson
Asst. Director, Career Planning

Now that your resume is in good shape, let's hope it makes some noise! Turn in one copy of that masterpiece on February 8 in exchange for a list of on-campus recruiters. Use this list as an indicator of the number of resumes you will submit to respective employers on February 15-17. Interviews take place March 6-16 and March 27 - April 7.

Army JAGs

The Army Judge Advocate General's Corps will have an early recruiting date of Tuesday, February 22. Interested first- and third-year students should read the informational sheet posted on the Career Planning bulletin board and submit one resume to the CPP office by Friday, February 10.

Open House

Students and staff are invited to Career Planning and Placement's Open House from 4:00 - 6:00 p.m. on Thursday, February 23. Stop in for a minute and grab a snack. Resume-for-food transaction not necessary!

Law Clerk Training Seminar

The Career Planning and Placement office and the Alumni Association will be co-sponsoring a Law Clerk Training Seminar. Sign-up sheets are available in the CPP office as well as the Alumni Office. Spaces are limited.



Photo by Robert Swain

Crits' heroes Duncan Kennedy and Kimberle Crenshaw look on as USD's own Joanne Conaghan addresses the issue of sexual discrimination. "An Evening With the Crits" proved to be an interesting and successful symposium. For related story see page 4.

Spring Intramurals schedule available

The 1989 Spring Intramurals programs have begun, featuring basketball and softball. For more information contact Tim Gawron in the Intramurals Office. The office is located in The Writs, bottom floor of the law school.

Law Aerobics are also offered this semester for those interested in working off those extra vacation pounds, others looking to impress on Valentine's Day and for those exercise conscious individuals that remain trim throughout the year. This event is law student-only. A nominal fee will be charged.

Further information is also available on the kiosk located in the first floor lobby of More Hall.



WINTER SPECIAL
FEB. 2ND -10TH
Free 5X7 Enlargement
with every roll purchased

USD
BOOKSTORE

LARGER 4" DOUBLE PRINTS

FROM COLOR NEGATIVES ONLY.

| | |
|---------------------|--------|
| 12 Exp. (24 Prints) | \$3.47 |
| 24 Exp. (48 Prints) | \$5.95 |
| 36 Exp. (72 Prints) | \$8.43 |
| Disc (30 Prints) | \$4.39 |



Up to 53% Larger!

SECOND SET FREE-EVERYDAY!

STANDARD SIZE DOUBLE PRINTS

FROM COLOR NEGATIVES ONLY.

| | |
|---------------------|--------|
| 12 Exp. (24 Prints) | \$2.99 |
| 24 Exp. (48 Prints) | \$4.99 |
| 36 Exp. (72 Prints) | \$6.99 |
| Disc (30 Prints) | \$3.79 |



Cir. Judge Brown sits for finals

(Continued from page 1.)

Brown had a list of things which offended him and which he warned us not to do when arguing."

After clerking for Judge Brown, Klonoff spent three years at Arnold & Porter, the largest law firm in Washington D.C. He spent the next three years working as a Federal prosecutor. Before coming to USD, he spent two years as an assistant to the Solicitor General where he argued before the United States Supreme Court.

Klonoff is currently teaching contracts and advanced trial advocacy. Last semester he taught contracts and criminal procedure.

The third judge for this year's competition is John Allcock, a partner at Gray, Cary, Ames and Frye. Allcock, who specializes in First Amendment and intellectual property law, graduated from Harvard Law School in 1981. Allcock is well known in the San Diego legal community as a gifted litigator and has extensive experience in many areas of law.

Kratter Law Library

Phase I construction on schedule

(Continued from page 1.)

addition in 1990 where more room will be available for the faculty and staff involved with the various centers.

The study space in the Center will also be increased and will include lighted individual carrels large enough to handle more than one book on the desk at a time. New, longer tables will also be placed throughout the Center to provide for additional seating around the stack area.

The lighting and the air-conditioning systems will be replaced in the entire structure to bring the library up-to-date. Currently, the lighting in the library is woefully inadequate, as anyone who has spent hours trying to read under the light can attest.

The new central air-conditioning system will both allow students to study in a more comfortable setting (anyone recall the unbearable heat of a spring day on the second floor?), and will help preserve the books better than is presently being done.

The deterioration of certain volumes has reached the point where a climate control system was necessary to save them from complete destruction, and the construction of the new Center has presented the perfect opportunity to update the old system.

The Center will also contain a computer

First round held Feb. 1

This year's argument is in the California Supreme Court and addresses issues in tort and evidence law. The first two rounds of the competition will be held at the downtown courthouse on Wednesday, February 1 and Thursday, February 2.

Oral arguments will begin promptly at 6:30 p.m. The competition is a team competition and the winners will go on to represent USD in the Roger G. Traynor Regional Moot Court Competition on March 31, and April 1 at Pepperdine School of Law in Malibu. Everyone is encouraged to attend the finals of the St. Thomas More Moot Court Competition on Friday, February 3, at 5:30 p.m. A reception will immediately follow.

Open Forum on February 3

Everyone is invited to attend an open forum from 11 a.m. to 1 p.m. on February 3. The location is unavailable at time of printing.

(Portions of this article were extracted from *Unlikely Heroes*.)

lab room, similar to the one at the USD Business School, where students will be able to use computers for their various class and research projects.

Other rooms will be constructed in the Center which will offer students the opportunity to use their own computers while at the library. These rooms will be on the second floor of the existing structure after Phase Two, along with more and larger conference rooms, a feature lacking now.

The library's microfilm and microform collection will also be relocated to provide more space for the collection, and make access to and viewing of the collection easier for students and faculty. Certainly this aspect of the new Center will provide greater access to this very useful and important research bank.

"Our goal for this project is to make the Center as complete a research facility as possible for the students at the Law School and the legal community in San Diego, while at the same time providing those who use the Center with a comfortable environment in which to do their work," says Carter.

The funding for the entire project is still not complete, but money is being raised as the construction continues. Assuming no major roadblocks are encountered, the project will be complete by June of 1990.

USD-only Law and Economics essay competition announced

by Charles Hrvatin

The Dean's Office has announced the 1989 Law and Economics Essay Competition. The contest is designed to stimulate research and analysis of social, political and legal issues using the techniques of market economics. Competition is open only to USD students who are either second, third or fourth year, day or evening, students. Student collaboration is acceptable.

A first prize of \$250 will be awarded for the best paper. Second prize will receive \$100 and a special award of \$50 will go to the individual with the best oral defense of his paper.

The oral prize opportunity is a separate award. Essay winners need not defend their papers orally, but may do so as an option. All entrants submitting acceptable papers may participate in the oral defense.

Paper requirements include a minimum length of 10 pages up to a maximum of 50, excluding footnotes. Scholarly writing style should be used citing appropriate authority for all propositions, legal, economic or otherwise.

Judges will evaluate the papers for economic analysis, legal analysis, logical flow and clarity as well as format. The paper should demonstrate clear economic reasoning reflecting the author's firm grasp

of market dynamics. Papers must merit at least 70 out of a possible 100 points to be considered for an award.

Possible topics include: a study on the economic consequences of California's Proposition 103, drafting a "perfect" rent control or controlled-growth statute, and answering whether *NCAA v. Board of Regents* was correctly decided under an economic analysis to name a few. However, authors are free to choose any substantial topic involving economic analysis and legal issues.

Entrants should demonstrate a command of market economic principles in the analysis of problems involving law, legislation, political systems or social action. A critical approach may be taken and no penalty will be incurred for taking arguments critical of the market economic approach; but these arguments must still demonstrate a clear understanding of market economics.

The deadline for submission of all papers is 4 p.m., April 21, 1989, in Dean Morris' office. Results will be announced and prizes awarded no later than July 3, 1989 and papers will be returned no later than August 1, 1989.

Further information concerning details of format, judging criteria, research references and sample topics are available in the Dean's Office, More Hall Room 200.

Maiden Crits forum packs UC

(Continued from page 4.)

concentrated his talk on his views about law school teaching and curriculum, and its effect upon the values of students.

"The legal education that you are getting in your law school teaching is a form of political indoctrination," stated Kennedy. "That is, a conservative political indoctrination."

However, Kennedy suggests that not only are students unaware of this, but so are many faculty members, because the process is again under the guise of neutral principles and teaching.

"Students are being trained to view the rules that are creating the society, with its deep inequalities all around, as things that are non-political. They are being trained in the most traditional mode of indoctrination to do whatever their employer says, and to understand themselves as respect-

able professionals, even if in their work lives they are the people who endlessly reproduce the system of class and gender inequality."

Kennedy concluded by asking the students in the audience to demand of their teachers an explanation of the distributive consequences of power and wealth that these apparently neutral rules have upon society.

"So that if you do this exercise day after day," Kennedy said, "you will eventually discover that a whole world of law's significance has just been suppressed. And you can make it come to the surface with nothing more than this delicious, anti-authoritarian, hippie, trouble-making activity."

(Editor's Note: Anyone interested in participating in a CLS reading group should contact Gary Fielder at the SBA office.)

Judicial externships fruitful to those 'paying to play'

(Continued from page 7.)

experience on which to base my decision.

How to get an externship

Each court has its own method of hiring and working with student externs. Some judges hire their own after being contacted

through their chambers' office and some units, like the Superior Court and Fourth District, also have an extern coordinator who coordinates hiring of externs for interested judges.

Externs can either work in a pool like many law clerks do at law firms. The Fourth District hires a certain number of externs to match the number of judges interested in externs with judges getting a choice on his or her extern, according to a rotating seniority.

Working in the summer I was able to work up to 40 hours a week at the court. However, most judges will take externs during the spring and summer, usually taking applications one season ahead of the work season.

Anyone interested in finding externships in the San Diego area or elsewhere should contact Kelly Salt, Assistant Dean, or Maryann Salaber in Career Planning. Career Planning keeps a book with listings by any judges, from in and out of town, who send letters requesting externs and listing requirements and deadlines. There is also a bulletin board on the third floor of More Hall by the clinic which posts many externship requests.

Judges from Hawaii to Alaska send letters to USD looking for externs. Most of these courts rely heavily on externs who can get credit for the work because the state and federal court systems just don't have the money to pay clerks who haven't graduated.

Credit guidelines

To get credit for the externship I was required to write a short paper on "what I learned on my summer vacation," and to keep a journal of my hours. Credit hours were awarded on a basis of one credit hour for every 58 hours you worked, up to a maximum of five hours (a rule being modified at this time.)

USD's guidelines on credit requirements are now being assessed and modified by Kelly Salt, Assistant Dean. In general, if

the specific chambers or court is approved as an externship sponsor who will give an extern quality work and experience, the student must only satisfactorily fulfill that court's work requirements.

Different amounts of credit are available depending on whether the externship is in summer or during the school year, and how many hours worked. A paper describing your experiences and newfound knowledge will probably be required also. For more information on credit, contact Salt.

Many students don't consider judicial externships because of the lack of pay but my experience last summer helped me land a very good job for this upcoming summer. Interviewers who haven't worked at a court before are curious to know what it's like. Many attorneys still wonder at the mystique of a judge's chambers and are impressed that a law student has learned about judges and their secret processes. (Judges do a lot of hard core research and writing and not divining rods, but it's hard to convince some attorneys.)

Although I only earned four school credits last summer, instead of income for Uncle Sam to tax, it was probably the most enlightening class I've had at law school. I hope more law students will take the initiative and join the class.

USD Night-Every Wed.



Mexican Restaurant

MISSION GORGE
6333 MISSION GORGE RD.
280-9944
MIRA MESA
10787 CAMINO RUIZ
695-1461
MORENA/NAPA
5302 NAPA STREET
542-1462

OPEN DAILY FROM 11 A.M.

MOTIONS

CLASSIFIED ADS

Only \$4 for 25 Words.

To place an ad call Ext.4343
or stop by UC Room 114A

Vast array of essay contests offered to eager authors

As a continuing feature, *Motions* will run a monthly update on available essay competitions and scholarship announcements. The following is a list of those announced before January 17 at USD. The information given is not complete; please see the flyers for further information.

The following contests are listed to the left of the assignment board on the second floor of the law school. See the board for more information.

Computer Law Writing Competition

sponsored by the Center for Computer Law and the Computer Law Journal
Topic: Any topic that addresses legal or regulatory aspects of the computer industry
Deadline: April 30, 1989
Awards: \$250 (1st), \$150 (2nd), \$100 (3rd), and \$50 (4th and 5th)

The Stephen P. Ladas Memorial Award

sponsored by the U.S. Trademark Association
Topic: Trademarks or related subjects
Award: \$1000 plus a set of treatise on "Patents Trademarks and Related Rights - National - International" and possible publication
Deadline information is unknown

Federation of Insurance and Corporate Counsel

Topic: Any insurance related subject including trial practice of liability litigation
Deadline: May 1, 1989
Awards: \$2500 (1st), \$1500 (2nd), \$1000 (3rd) and \$250 if any other paper is chosen for publication. In addition the winner will

be invited to attend the Federation's convention in Virginia and the winner's school will be eligible to win a \$3000 scholarship fund.

The Inter American Bar Association

Topics: Environmental protection, international commercial arbitration, methodology in the teaching of law, protection of human rights in the Inter-American system, new perspectives for peaceful settlement of disputes among American countries, and the use of computers in the practice of law and liability for illegal use.
See the flyer for further information regarding deadlines and awards.

The following contests are listed on the board in the Records office. See the board for more information.

Intellectual Property Essay Contest

sponsored by the Intellectual Property Section of the State Bar
Topic: Intellectual property protection
Deadline: August 1, 1989
Award: An expense paid trip for the winning student and his Intellectual Property professor to the Section's annual meeting at Quail Lodge in Carmel Valley, California on October 6, 1989 as well as publication of the winning essay in the section's journal, New Matter.

NELPI Energy Law Competition

Topic: Energy law
Deadline: March 31, 1989
Awards: \$300 for the winning student and \$200 for his school

ABA Medicine and Law Committee of the Tort and Practice Section

Topic: Medicine and law
Deadline: May 1, 1989
Awards: \$1000 and possible publication

American Agricultural Law Association

Topic: Agricultural law
Deadline: June 30, 1989
Awards: \$500 (1st) and \$250 (2nd)

ABA Standing Committee on Law and the Electoral Process

Topic: The effect of election laws on voter turnout
Deadline: April 15, 1989
Awards: \$750 (1st) and \$250 (2nd)

Nathan Burkan Memorial Competition

Topic: Copyright law
Deadline: June 30, 1989
Awards: \$500 for the best essay from each school and \$200 for the second best; nationally \$3000 (1st), \$2000 (2nd), \$1500 (3rd), \$1000 (4th), and \$500 (5th)

I.H. Prinzmetal Essay Contest

Topic: Law, philosophy, business, government or human relations of interest and significance to lawyers
Deadline: May 31, 1989
Award: \$250

American Law Institute-ABA Committee on Continuing Professional Education

Topic: Is mandatory continuing legal education valid under the United States Constitution?
Deadline: March 1, 1989
Award: \$1000 and publication

National Labor Law Writing Competition

Topic: Labor law
Deadline: May 15, 1989
Awards: \$1000 (1st), \$750 (2nd) and publication

Sidney Lesine Essay Contest

Topic: Abortion
Deadline: March 1, 1989
Award: \$100

International Association of Defense Counsel

Topic: Tort law, insurance law, civil procedure, evidence or any other area of concern to lawyers engaged in the management and defense of civil litigation
Deadline: April 17, 1989
Awards: All contestant receive a year's subscription to the Defense Counsel Journal. In addition, \$2000 (1st), \$1000 (2nd), \$500 (3rd) and publication will be awarded.

National Legal Writing Competition

Topic: Legal issues in higher education
Deadline: June 16, 1989
Award: \$1000 and publication

National Center for Preventive Law

Topic: Articles describing and analyzing creative lawyering methods and techniques for anticipating and preventing future disappointment or controversy. Preventive law is: A branch of law that endeavors to minimize the risk of litigation or to secure more certainty as to legal rights and duties.
Deadline: March 1, 1989
Award: \$1,000

10% tuition increase to benefit minority scholarships, staff wages

(Continued from page 1.)

sity and also to maintain the current faculty and staff.

Hughes said that this special program was a response to comparatively lower salaries that USD has offered for some time. "Addressing the existing problem of faculty and staff leaving, as they increase in skill and recognition, is long overdue," Hughes said.

Law Library Director Nancy Carter was a law school representative on the Budget committee. When she polled the law faculty to find out budgetary priorities, the entire faculty placed emphasis on increasing staff salaries, minority scholarships and library support above increasing their own salaries. Carter also discovered that USD has a 25% staff turnover rate. This is a large hidden cost because of the costs involved in recruiting, training and hiring new staff.

And one of the biggest reasons the staff leave USD is because of the low pay scale, Carter said. Last year the law library had a 100 percent turnover in reference librarians, mostly because of the salaries. Two of the reference librarians went on to get library jobs elsewhere with raises of \$7,000 and \$10,000.

Morris stated that the tuition increase was to strengthen the legal education of existing and future law students. To accomplish this goal he said it will be necessary to hire additional faculty. Right now the student to faculty ratio is approximately 24 to 1. The American Bar Association considers a 25 to 1 ratio a very undesirable factor in terms of re-accreditation. Therefore, it has become a high priority to lower this ratio and provide more individualized instruction to the students.

The university has also focused on providing more funds for minority students and increasing the merit scholarships that are currently available. Recently, \$300,000 was raised by a phone/mail campaign to alumni who had never before contributed to USD. These funds, along with a portion of the tuition increase, will be used to accomplish the greater diversity that the law school has been striving for.

A portion of the tuition increase will

also be used to refurbish the classrooms in More Hall over the summer of 1989. This along with many of the other programs being instituted are only possible by increasing tuition to cover the costs. "Since USD is a private institution we are highly tuition dependent," Morris said.

On January 26 the university announced a major fund raising campaign "Education for a New Age". This campaign is anticipated to generate a total of \$47.5 million. One-half of this money has already been generated from the trustees of the university.

We are already seeing some of the effects of this campaign by the current addi-

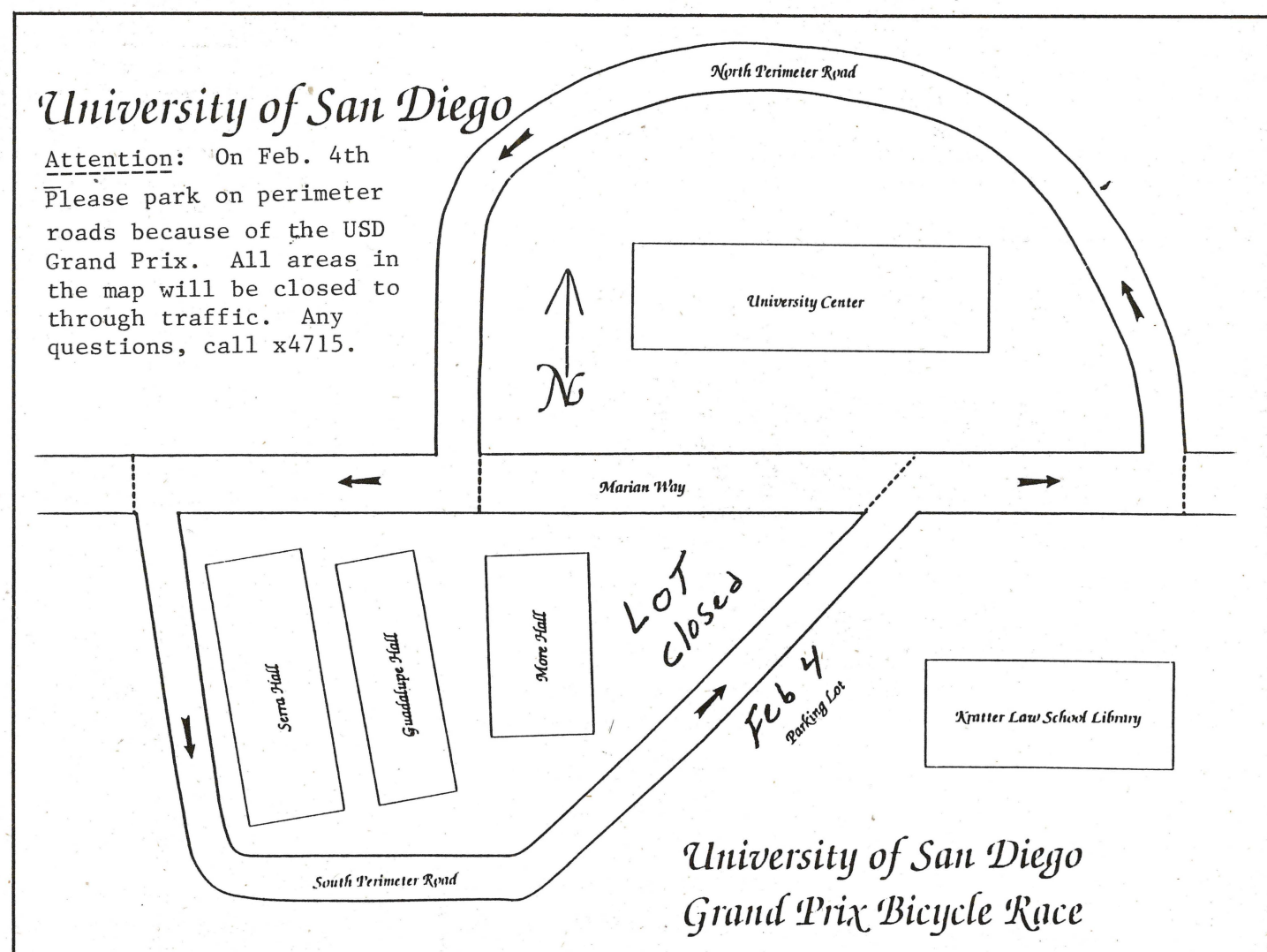
tion to the law library which is costing the university \$6.2 million. But even if this campaign is successful it is very unlikely that tuition will be decreased.

Morris indicated that he realistically expects the tuition increases to be at least 10 percent in the coming years. Notice should be taken that for the 1988-89 school year USD ranked last in the amount of tuition charged.

Even by raising our tuition by 10 percent and if all other law schools raise their tuition only 8 percent, USD will still be second lowest of the other eight private law schools listed for the 1989-90 academic year.

As the tuition rates increase, we can only hope that the salaries offered to graduating students will increase accordingly so we have the ability to repay the student loans that have become a necessity to the average law student.

| LAW SCHOOL | YEARLY TUITION |
|-------------|----------------|
| U.S.C. | \$14,000 |
| Pepperdine | 12,100 |
| McGeorge | 10,275 |
| Santa Clara | 10,079 |
| U.S.F. | 10,073 |
| Cal Western | 9,900 |
| Loyola | 9,362 |
| U.S.D. | 9,350 |



CALENDAR OF EVENTS

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|---|----------------|---|-----------|--|--------|-----------------------------|
| February 5 AS Bike Race Mardi Gras Mass Founder's 7 p.m. | SBA Meeting 6 | 7 | 8 | Lawyer's Guild 9 | 10 | 11 |
| LINCOLN'S BIRTHDAY 12 | SBA Meeting 13 | VALENTINE'S DAY 14 | 15 | Civil Rights March 16 Lawyers Guild | 17 | 18 |
| 19 | SBA Meeting 20 | 21 | 22 | MHPILF Meeting 23 Lawyers Guild | 24 | 25 |
| February 26 - March 4 | | MID-TERM WEEK | | | | March 4 BARRISTER'S BALL |
| March 5 | SBA Meeting 6 | Motions deadline 7 for Mar. 16 issue | 8 | 9 | 10 | 11 |
| March 6 - 10 International Women's Week | | | | | | |

President's Report

by Jack O'Donnell

Initially, I would like to express my gratitude to those who helped pull off the successful Halloween party last semester. All those who attended I'm sure would agree, that party was a success. If you were unable to attend the Halloween Party, mark your calendars for the Barristers Ball this Spring. While a bit more formal, the March 4 event will provide the necessary mid-semester time out for riotous antics. Last spring, myself and the Student Bar Association sponsored a picnic for some of the neighborhood grade school children. First-year representative Brent Neck is presently forming a committee to begin planning this year's picnic in the Spring. If you are interested, please contact myself or Brent at the SBA office (Extension 4346). As president of the SBA, I have become somewhat of a "receptical" for various student complaints, concerns and suggestions. While I am doing my best not only to field these complaints, but to try to make some headway in resolution, there are other opportunities for students to air their grievances. Last fall, Dean Morris

held an open forum for questions and comments, which was followed by an open forum held by the Board of Visitors. Both of these events, well advertised, were poorly attended. In order for the situations to be remedied, student participation and at least interest lend support to my suggestions to the faculty and other staff. I would encourage you as a student body to take advantage of opportunities to communicate not only individually with your professors, but also to utilize the open forums where your questions and comments can be directly raised to the administration. Other events to look forward to this semester include the Martin Luther King Celebration March on February 16 co-sponsored by the Balsa and SBA. Note Darryll Exum's article on page 1 of this issue of *Motions*. Lastly, I would like to congratulate Darryl Exum and the "Critters" on the fantastic program featuring Duncan Kennedy. Please feel free to attend any SBA meetings that you like to. They are held on Mondays at 5:00 p.m. in Room 2A of the Law School.

Mardi Gras to hit Alcalá Park

Mardi Gras '89 is new, exciting and wants you to join the fun! Come to the Masquerade Bash on Saturday, February 4 from 9 p.m. to 1 a.m. in the University Center Forum. Dress is semi-formal (tuxedos and cocktail dresses) with an unusual flair and either a mask or painted face are required. Masks and face paintings will be sold at the door. A live band will be playing for your dancing pleasure in the forum and cafeteria dining area which will be decorated to look like a ballroom. Authentic Mardi Gras desserts and souvenirs will be available. Tickets are only \$5 per couple or \$3 per person at UC Ticket Box. For more information contact the Associated Students office in the UC or 260-4600 x4715.

Faculty Briefs

(Continued from page 9.)

in an SDSU-sponsored seminar on Employment Law for Border Businesses, The TriNational Perspective-U.S., Mexico and Japan in December. He is also busy organizing the SMU Law School Multi-State Labor and Employment Law Seminar to be presented in Dallas in April. California State Bar Discipline Monitor, Professor Robert Fellmeth, conducted a study on discipline procedures of the Board of Medical Quality Assurance regulating physicians.

Associate professor Steven Hartwell presented a paper regarding women in negotiating at the Conference of the Organization of Communication, Language and Gender on October 7. The paper was co-authored by Renata Hutak, a recent USD graduate. Tentative schedules for mid-term and inal exams are now available at the Records office. Students should pick these up as soon as possible so exam conflicts can be resolved.

Exam scheds available

Classified Ads

Run your ad for only \$4 for 25 words. Have something to sell or advertise? More reliable than a packed bulletin board, 1300 law students, staff and faculty read *Motions* as well as many in the USD community. Next issue: March 16, 1989. Deadline for ad and fee: March 7, 1989. For information call: 260-4600, x4343.

WORD PROCESSING

Typing, Electronic, \$1.85 per double space page. Experienced, Editing Inc. 286-9879, Lee Ann. Typing/Word Processing (IBM PC/Wordperfect/laser printing) 15 yrs. exp.. Very reasonable rates. 24-hr turnaround or less for ALL typing needs. Pt Loma Area. 223-1399.

Word Processing/Graphics: Laser printing. Resumes, Letters, Business card design, Term Papers, Manuscripts, Desk top publish. High Quality. Reas. prices. Rebecca 270-0215. Word Processing: Specializing in legal document (11 yrs), IBM, Wordperfect, laser print, \$2.50 /2-spaced pg, close to USD. Syntax Word Processing, Tasha. 231-4441/569-4153.



Friday, February 3rd
Mardi Gras Theme Dinner UC Cafeteria

| | |
|--|--|
| Saturday, February 4th AS Bike Race Masquerade Bash & Ceremonies Crowning of Rex and Queen 9:00 p.m. | Sunday, February 5th AS Bike Race Continued Closing Mass Founder's Chapel 7:00 p.m. |
|--|--|

POOL COCKTAILS DARTS

Connelli's Sports Lounge

1310 MORENA AT SEA WORLD

• 276-5637

PING PONG GIANT TV VIDEO GAMES

CALIFORNIA BAR/BRI FACULTY

THE EXPERTS WILL GET YOU THROUGH THE BAR EXAM!

Bar review lecturers perform several critical functions:

- * They review and synthesize the material.
- * They provide a methodical structure for writing essay answers in their areas.
- * They provide Multistate strategy, techniques and practice in the Multistate lectures.
- * Most importantly, they hone in on areas most often tested so that the individual's studies may be focused.

Most of the BAR/BRI faculty have more than ten years experience preparing students for the California Bar Exam. *And they are still with us because student course evaluations have given them all consistently high marks in performing these functions.*

California BAR/BRI Faculty:

Assoc. Dean Catherine Carpenter,
Southwestern Univ.

Prof. Erwin Chemerinsky, U.S.C.

Dean Jesse Choper, U.C. Berkeley

Prof. Richard Conviser,

BAR/BRI Multistate Staff

Dean John Diamond, U.C. Hastings

Prof. Daniel Fessler, U.C. Davis

Prof. Willie Fletcher, U.C. Berkeley

Prof. Anita Glasco, Southwestern Univ.

Prof. Stanley Goldman, Loyola Univ.

Prof. Paul R. Goldstein, Stanford Univ.

Prof. Steven R. Hirschtick, Bar/Bri Staff

Prof. James Hogan, U.C. Davis

Prof. Tom Jorde, U.C. Berkeley

Dean Janet Kerr, Pepperdine

Prof. Janice Kosel, Golden Gate Univ.

Prof. Arthur Miller, Harvard

Prof. Faust Rossi, Cornell

Prof. Richard Sakai, U.C. Hastings

Prof. Ira Shafiroff, Southwestern Univ.

Prof. Charles Whitebread, U.S.C.

Prof. Richard Wydick, U.C. Davis

California
barbri
BAR REVIEW